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PUBLIC HEARING

STATE OF CALIFORNIA

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA JR./Calepa HEADQUARTERS BUILDING

1001 I STREET

COASTAL HEARING ROOM

SACRAMENTO, CA

TUESDAY, DECEMBER 16, 2008

9:44 A.M.

LINDA KAY RIGEL, CSR CERTIFIED SHORTHAND REPORTER LICENSE NUMBER 13196

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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APPEARANCES

COMMITTEE MEMBERS

- Ms. Margo Reid Brown, Chair
- Ms. Sheila Kuehl
- Mr. John Laird
- Ms. Rosalie Mule
- Mr. Gary Petersen

STAFF

- Ms. Kristen Garner, Executive Assistant
- Mr. Mark Leary, Executive Director
- Ms. Lisa Barry, Sustainability Program, Local Assistance and Market Development Division
- Mr. Jon Myers, Assistant Director, Office of Public Affairs
- Ms. Holly Armstrong, Staff Counsel
- Mr. Elliot Block, Chief Counsel
- $\operatorname{Mr.}$ Howard Levenson, Program Director, Sustainability Programs
- $\operatorname{Mr.}$ Ted Rauh, Program Director, Waste Compliance and Mitigation
- $\mbox{Mr. Reinhard Hohlwein, Waste Compliance and Mitigation Program }$
- Mr. Mark de Bie, Division Chief, Waste Compliance and Mitigation Program, Permitting and LEA Support Division
- Ms. Donnell Duclo, Executive Assistant

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STAFF continued

- Mr. Michael Bledsoe, Staff Counsel
- Ms. Brenda Smith, Sustainability Program

ALSO PRESENT

- Mr. Frank Ferral, Stockton Chamber of Commerce
- Ms. Alison Hudson, Solid Waste Division, San Joaquin County Dept. Of Public Works
- Mr. Arthur Boone, Northern California Recycling Association
- Ms. Stacey Smith, AdEase
- Ms. Rebecca Ng, Marin County Environmental Health
- Ms. Kiki La Porta, Sustainable Marin
- Dr. Douglas Kerr
- Ms. Susan Brown, Green Coalition
- Mr. Brent Newell, No Wetlands Landfill Expansion
- Mr. David Yearsley, Friends of the Petaluma River
- $\operatorname{Mr.}$ David Haskell, Marin County Solid Waste Task Force
- Mr. Bruce Baum, Green Coalition for Responsible Waste/Resource Management
- Ms. Patty Garbarino, Marin Sanitary Service
- ${\tt Mr.}$ David Tam, SPRAWLDEF, Northern California Recycling Association
- Mr. Kelly Smith, Sustainability Parks Recycling and Wildlife Defense Fund
- Mr. Arthur Boone, Sierra Club
- Mr. Roger Roberts, Marin Conservation League

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ALSO PRESENT continued

 $\operatorname{Ms.}$ Jessica Jones, Redwood Landfill and Recycling Center

Mr. Evan Edgar, California Refuse Recycling Council

Mr. George Eowan, California Refuse Recycling Council

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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- 2 --000--
- 3 CHAIRPERSON BROWN: Good morning. Thank you
- 4 very much for your patience. And, you know, technology
- 5 is wonderful when it works. So thank you all for being
- 6 here for the December 16th Board meeting of the
- 7 California Integrated Waste Management Board.
- I think before we call the roll, it's probably
- 9 appropriate, I'm sure you've all noticed and we'd like
- 10 to acknowledge our two new Board Members who are here
- 11 with us here today.
- 12 Senator Sheila Kuehl is here representing the
- 13 Senate. I was going to say the pro tem has nominated
- 14 Senator Kuehl to be representing the Senate. And
- 15 Assemblyman John Laird. So welcome. Pleased to have
- 16 you both here.
- 17 They have a long record of environmental
- 18 stewardship and interest in the environment and the
- 19 issues that we handle here at the Board. So it's going
- 20 to be a pleasure to work with both of you. And welcome
- 21 you to the Board.
- We will call the roll. And then actually, if
- 23 you would like to say a few words, I'd be happy to turn
- 24 the microphone over.
- 25 Kristen, do you want to call the roll quickly.

BOARD SECRETARY GARNER: Kuehl?

BOARD MEMBER KUEHL: Here.

3 BOARD SECRETARY GARNER: Laird?

BOARD MEMBER LAIRD: Here.

5 BOARD SECRETARY GARNER: Mule?

6 BOARD MEMBER MULE: Here.

7 BOARD SECRETARY GARNER: Petersen?

8 BOARD MEMBER PETERSEN: Here.

9 BOARD SECRETARY GARNER: Brown?

10 CHAIRPERSON BROWN: Great. Senator Kuehl?

BOARD MEMBER KUEHL: Thank you very much,

12 Madam Chair. And it's really a pleasure to join this

13 Board.

4

14 I had done extensive work on various issues

15 related to the Board in 14 years in the Legislature,

16 and I -- this is what I wanted more than anything when

17 I -- for, you know, termed out. And you go from 60 to

18 0 in about three seconds and think no, no, no; that

19 can't work.

20 So I'm very grateful to be here.

21 I am generally loquacious, but probably not at

22 my first meeting. Because I couldn't even find the

23 back door to come in here. So I feel like a kid at a

24 new school like I did at the Capitol when Willie Brown

 $25\,$ took me through all the back stairs and up to what I

- 1 thought was a secret cafeteria which turned out to be
- 2 the sixth-floor cafeteria in the Capitol. But who knew
- 3 how to get there?
- 4 So I'm really looking forward to the work of
- 5 the Board and participating with the other members and
- 6 the public and all the advocates, and I'm very happy to
- 7 be here.
- 8 Thank you.
- 9 CHAIRPERSON BROWN: Assemblyman Laird, did you
- 10 want to?
- 11 BOARD MEMBER LAIRD: I will be equally brief.
- 12 It is an incredible pleasure to be able to
- 13 serve on this Board. And one of the more interesting
- 14 things that happened when you were in the Capitol
- 15 frequently is that you'd get to escort fourth grade
- 16 classes who were here for California history onto the
- 17 Capitol floor.
- 18 And I was asked once by a kid from an
- 19 elementary school in Santa Cruz, where are my home is,
- 20 what did you like more, being mayor of Santa Cruz or
- 21 being in the State Legislature?
- 22 And I very casually and flippantly said that
- 23 the second time I was mayor in Santa Cruz somebody was
- 24 arrested in every meeting for four months, so I liked
- 25 the Legislature a lot more.

- 1 And I expect there is a similar comparison
- 2 between the Waste Board and being in the Legislature,
- 3 that hopefully it will be a lot more peaceful here,
- 4 especially after a four-year stint as budget chair.
- 5 (Laughter)
- 6 BOARD MEMBER LAIRD: But I would say that,
- 7 just noting some of the things that have been out in
- 8 public lately, on Saturday night, our local waste
- 9 diversion group in Santa Cruz gave me a lifetime
- 10 achievement award for 35 years of work in waste
- 11 diversion issues.
- 12 And it was interesting; I had to say that my
- 13 life wasn't over yet, even though I really appreciated
- 14 the award.
- 15 But when I was on the Santa Cruz City Council
- 16 in the early '80s, we were just one of the very first
- 17 curbside recycling programs and always moved way out in
- 18 front of everything else. And there is just a long
- 19 history, and I'm just proud to bring that history and
- 20 that tradition to this Board and look forward to
- 21 working with everyone.
- 22 CHAIRPERSON BROWN: Hear, hear.
- Thank you. And I think you will both find
- 24 that we have an incredible staff. And when I first
- 25 joined this Board, I had heard -- and it is definitely

- 1 true -- that this is the best-kept secret in state
- 2 government, that we quietly go about our business
- 3 working with jurisdictions in a collaborative effort,
- 4 and we certainly do make a significant difference for
- 5 the people in the State of California.
- 6 So it's a pleasure to have you here.
- 7 And I know a few of our staff members are in
- 8 the audience today, Mark and Rubia; and on behalf of
- 9 all of them, we'd like to welcome you.
- 10 Okay. Now to our business. Any ex partes to
- 11 report?
- 12 I will note for the record that we do have and
- 13 have received quite a few letters regarding Item 1 on
- 14 the agenda today, written comments submitted to the
- 15 Board. And before we start our meeting on behalf of
- 16 the Board, I would like to submit into the record a
- 17 list of all of the people who have sent letters within
- 18 the last 24 hours that are in the process of being
- 19 inputted to our electronic ex parte system.
- 20 But in the meantime, I have a list of all of
- 21 the letters, the names of the authors, the
- 22 organizations they represent, who they were sent to,
- 23 the response, and the date that they plan to be
- 24 inputted. So for the record, I am including that.
- 25 And I will move first, after that, to our

- 1 Executive Director. Mark?
- 2 EXECUTIVE DIRECTOR LEARY: Thank you, Madam
- 3 Chair. Good morning. And good morning Members, and a
- 4 special welcome to our new Board Members from the staff
- 5 of the organization.
- 6 We're looking very much to working with you
- 7 and supporting the policy-making that you'll do here as
- 8 a member our Board. So welcome, and we look forward to
- 9 great things.
- 10 Madam Chair, Members. I have two things to
- 11 report on today, first of which -- both of them kind of
- 12 good news -- the first of which is very important good
- 13 news, and it's regarding our diversion rate for the
- 14 year 2007.
- 15 Madam Chair, I think really almost since the
- 16 beginning of 939, or the passage of 939, our
- 17 interactions with the jurisdictions have been defined
- 18 most principally by one person. And that person is
- 19 Cara Morgan.
- 20 And Cara Morgan is our Division Director
- 21 within our Local Assistance and Market Development
- 22 Division, working for Howard, and you saw her
- 23 prominently featured last week in our jurisdiction
- 24 compliance items that came before the committees.
- 25 I'd like Cara to report on the news for 2007

- 1 out of respect and honor for her tremendous
- 2 contribution to this organization and to the state's
- 3 diversion rate.
- 4 DIVISION CHIEF MORGAN: Thank you, Mark. That
- 5 was very kind of you.
- 6 Cara Morgan, Local Assistance and Market
- 7 Development Division, and I am truly pleased to be here
- 8 today to announce the statewide diversion rate for
- 9 2007, which is 58 percent.
- 10 (Applause)
- 11 DIVISION CHIEF MORGAN: Yeah. Kudos.
- 12 This is four percent higher than in 2006 and
- 13 six percent higher than in 2005, which means we
- 14 diverted an additional 3.6 million tons above our 2006
- 15 levels.
- 16 This is testimony to the Board's very
- 17 successful AB 939 partnership between state government,
- 18 local government, the solid waste industry, our
- 19 businesses in California, and everyday citizens.
- 20 And it happened while California's population
- 21 grew, and our generation also grew by one percent in
- 22 2007. So this is a real testament that it is making a
- 23 difference.
- By the numbers, for 2007 we generated 93
- 25 million tons. We disposed just less than forty million

- 1 tons and diverted almost 54 million tons of waste. By
- 2 diverting this material from landfills, we are also
- 3 significantly reducing our greenhouse gas emissions.
- 4 We also reviewed local jurisdiction AB 939
- 5 compliance performance this week. And I am happy to
- 6 repeat that 340 jurisdictions met their 50 percent
- 7 diversion requirement and are implementing outstanding
- 8 solid waste diversion programs.
- 9 And another 55 jurisdictions, while not having
- 10 met the rate, also have made a good-faith effort and
- 11 are doing a great job in implementing their diversion
- 12 programs.
- 13 This again is a testament to the leadership of
- 14 this Board, to our very talented staff, and to the
- 15 commitment and efforts by local jurisdictions,
- 16 industry, environmental groups, businesses, and our
- 17 citizens of California.
- 18 And of course, as the Board discussed last
- 19 week, now we are seeing prices for recyclable
- 20 commodities drop, and people are wondering what this
- 21 will mean for diversion programs.
- The Board is already discussing what it can do
- 23 in the short term to address this, but I also wanted to
- 24 note for those that are listening that the Board's
- 25 process of reviewing jurisdictions allows us to

- 1 consider exactly these circumstances when determining
- 2 compliance or good-faith efforts, and I wanted to
- 3 reinforce that message.
- 4 Lastly, I would like to note that as a result
- 5 of the passage of SB 1016 that changed our measurement
- 6 system in terms of the statewide diversion rate, we
- 7 anticipate that the 2008 diversion rate will be
- 8 available in spring 2009 instead of the two-year lag
- 9 that you're seeing with the 2007 diversion rate. This
- 10 is a huge change in our system.
- 11 And just so you know, we get the 58 percent
- 12 rate whether it's calculated using our old adjustment
- 13 method or the new SB 1016 method.
- 14 And finally, I would like to give a special
- 15 thanks to John Sitts and Janelle Auyeung for putting
- 16 together our statewide diversion rate. Thank you.
- 17 (Applause)
- 18 EXECUTIVE DIRECTOR LEARY: Thank you, Cara.
- 19 Well-done, as always.
- 20 Also, Madam Chair, Members, I'd like to take
- 21 the opportunity to embarrass -- I mean recognize -- a
- 22 couple of our other staff members who have done a great
- job above and beyond the call.
- 24 As you remember, Cal/EPA produced the
- 25 Governor's Summit on Climate Change in southern

- 1 California a couple weeks ago. And the various boards
- 2 and departments within Cal/EPA were called upon to
- 3 support the information technology needs at that
- 4 conference.
- 5 As usual, our own Gary Arstein-Kerslake
- 6 stepped in to spearhead this effort; however, he could
- 7 not foresee that his usually thorough and exhaustive
- 8 plotting might go awry.
- 9 A staff member was scheduled to provide
- 10 assistance during the conference and set up all the
- 11 equipment and was sidelined, unfortunately, due to a
- 12 car accident. At the last minute, Gary called upon Bob
- 13 Davila and Jose Rodarte, back in the corner there, to
- 14 step in.
- 15 They did so without hesitation, giving up part
- of their weekend to fly to LA. Both men were working
- 17 to 11:30 each night ensuring that conference staff,
- 18 Governor's staff, CHP security, and media all had
- 19 computers, wireless Internet access, and the ability to
- 20 make and print last-minute changes to their speeches
- 21 and presentations.
- I want to offer my thanks to Bob and Jose for
- 23 their support in ensuring that the Governor's staff,
- 24 Cal/EPA, and all the attendees had exceptional IT
- 25 capability and support at that showcase event.

- 1 Of course, Jose and Bob, who fully deserve
- 2 this recognition, were taking the risk of letting the
- 3 entire state know about our exemplary IT support that
- 4 we often take for granted; but that's a risk we're
- 5 willing to take.
- 6 And in addition to my appreciation, the
- 7 Governor wrote both of them a letter that he signed
- 8 expressing his appreciation for their contribution to
- 9 his Global Climate Change Summit.
- 10 Thank you, Bob and Jose.
- 11 (Applause)
- 12 EXECUTIVE DIRECTOR LEARY: And with that,
- 13 Madam Chair, I conclude my report.
- 14 CHAIRPERSON BROWN: Okay. Is this the time
- 15 when I admit he actually helped me print out my letter
- 16 as well, because I couldn't figure out the wireless
- 17 Internet access down there?
- 18 So I owe you a letter, Bob and Jose. Thank
- 19 you for your wonderful support while down there. Thank
- 20 you.
- 21 Thank you, Mark.
- We have two people who would like to speak
- 23 during the public comment period. Our first is Frank
- 24 Ferral.
- 25 MR. FERRAL: Good morning, Madam Chair, Board

- 1 Members. I'd like to again welcome the new Board
- 2 Members to the Integrated Waste Management Board, a
- 3 partner of the greater Stockton Chamber of Commerce in
- 4 Stockton California.
- 5 I'd like to introduce Alison Hudson for a few
- 6 comments, and then I'm going to put a big invite out to
- 7 you. Go ahead.
- 8 MS. HUDSON: Good morning. We're here today
- 9 actually to raise up and appreciate one of our
- 10 long-time friends and staff that provides all the
- 11 support for us.
- We've known Lisa Barry for years, initially
- 13 through the RMDZ. We had a floundering RMDZ program.
- 14 She came in and we put together a ten-year plan. We've
- 15 been working on it ever since.
- 16 We just recently had our fourth REXPO. We had
- 17 300 people appear from the interested-in-green or green
- 18 businesses. Lisa, of course, was there as she is
- 19 frequently on -- at our planning committee meetings and
- 20 all of our regional programs.
- 21 So we really appreciate the fact that she's
- 22 hung in here with us all of these years and that she
- 23 has really built from the beginning our program for
- 24 markets, for plastics, and for all of the other
- 25 commodities in San Joaquin County.

- 1 And she's always worked with us on a regional
- 2 basis, even though we're not a JPA. We work together
- 3 as a consortium of cities. And she insisted and we
- 4 insisted that she work with us as a group. She's done
- 5 that all these years.
- 6 And we just really appreciate her. Her work
- 7 is primo, and she just is fantastic. Her experience is
- 8 like none other, and we just really appreciate her.
- 9 MR. FERRAL: I'd like to ask Lisa to come up.
- 10 I'd like to give her a quick --
- 11 CHAIRPERSON BROWN: She's hiding in the back.
- 12 We see you, Lisa. Do you want to come up?
- MR. FERRAL: You know, it's not every day that
- 14 you get public servants like Lisa that -- who's
- 15 dedicated and motivated and goes beyond the call of
- 16 duty.
- So the greater -- on behalf of the 1700
- 18 members, 35,000 employees, that I represent at the
- 19 greater Stockton Chamber of Commerce and Doug Wilhoit
- 20 our CEO, I'd like to give you this little memento for
- 21 all the good things that you have done in the past 11
- 22 years that I have been at the Chamber of Commerce.
- 23 So I'd like to give that to you.
- 24 (Applause)
- 25 MS. BARRY: Just briefly, I'd like to -- I

- 1 appreciate the honor and the recognition. And I just
- 2 would like to let everyone know that Alison Hudson and
- 3 Frank Ferral are both very unique in local government.
- 4 They are so hard-working, so dedicated, so
- 5 smart and intelligent that it's been an honor to learn
- 6 from them and to work with them this past decade.
- 7 Thank you.
- 8 (Applause)
- 9 CHAIRPERSON BROWN: Thank you.
- 10 MR. FERRAL: And now I'd love to extend an
- 11 invitation for the new Board Members, Senator, to come
- 12 on down. I'd like to provide a tour of our Recycling
- 13 Market Development Zone businesses in San Joaquin
- 14 County. I'll give you the whirlwind tour of 11
- 15 companies, at your beck and call. So -- and
- 16 Assemblymember -- anytime you'd like to come on down,
- 17 we'd love to have you.
- 18 BOARD MEMBER LAIRD: Thank you.
- 19 BOARD MEMBER KUEHL: Thank you.
- 20 CHAIRPERSON BROWN: Thank you very much, Frank
- 21 and Alison. Appreciate you being here.
- Lisa, it's not a farewell; it's just sort of
- 23 an encouragement to keep going and doing the great
- 24 things that you're doing. So thank you.
- Our next speaker is Arthur Boone.

- 1 MR. BOONE: My name is Arthur Boone. I'm the
- 2 education director of the Northern California Recycling
- 3 Association. We're the old hippies from the '70s who
- 4 started these little recycling centers like the Ecology
- 5 Action of Santa Cruz.
- And we have continued. Many of our members
- 7 have become consultants and bureaucrats. But we still
- 8 go back to the old ways of doing things. We believe
- 9 that there is no solid waste; there are only wasted
- 10 solids. I'm sure you've heard that at one point or
- 11 another.
- 12 We look at the fact that over 200 cities in
- 13 California yet have yet not yet either met good-faith
- 14 efforts or their 50 percent diversion rate.
- 15 When Byron Sher wrote AB 939 in 1989, we were
- 16 disappointed that we had 40 million tons of garbage.
- 17 When we got to measure it more carefully, we had 44
- 18 million tons. Over the next five or six years, it went
- 19 down to 34 million. And then over from 1994 until
- 20 2006, the tonnage climbed consistently and regularly.
- 21 This year, 2007, is the first time we've had a
- 22 dip in solid waste disposed. We are not confident that
- 23 the measurement system that the State has relied upon
- 24 for the last 17 or 18 years is terribly accurate.
- 25 That's our opinion. We will be glad to speak about

- 1 that as required.
- We think you have a great task ahead of you.
- 3 We look forward to your vigorous participation in this
- 4 Board.
- 5 You're certainly welcome to come down to the
- 6 Bay Area. We like to think that we invent the future,
- 7 and the Waste Board explains it to the rest of
- 8 California.
- 9 (Laughter)
- 10 MR. BOONE: It's a little arrogant, but that's
- 11 kind of how we have managed to keep our heads up over
- 12 the years.
- But anyway, good wishes, best wishes, and we
- 14 hope to see you in the future. Thank you.
- 15 CHAIRPERSON BROWN: Thank you, Mr. Boone, for
- 16 being here.
- 17 That takes us to our agenda. Consent Agenda:
- 18 Items 2, 3, 4, 5 and 6 are on the Consent Agenda. Do
- 19 any members or anybody wish to pull any items from the
- 20 Consent Agenda? Can I have a motion?
- 21 BOARD MEMBER MULE: Madam Chair I'd like to
- 22 move the Consent Agenda.
- BOARD MEMBER LAIRD: Second.
- 24 BOARD MEMBER PETERSEN: I'll second that.
- 25 BOARD MEMBER MULE: It's been moved by Member

- 1 Mule and seconded by Members Laird and Petersen.
- 2 Kristen, can you call the roll.
- 3 BOARD SECRETARY GARNER: Kuehl?
- 4 BOARD MEMBER KUEHL: Aye.
- 5 BOARD SECRETARY GARNER: Laird?
- 6 BOARD MEMBER LAIRD: Aye.
- 7 BOARD SECRETARY GARNER: Mule?
- 8 BOARD MEMBER MULE: Aye.
- 9 BOARD SECRETARY GARNER: Petersen?
- 10 BOARD MEMBER PETERSEN: Aye.
- BOARD SECRETARY GARNER: Brown.
- 12 CHAIRPERSON BROWN: Aye. The Consent Agenda
- 13 passes.
- 14 Items 11 revised, 12, 13 revised are on Fiscal
- 15 Consent. Items 14 and 8 were heard in committee only.
- 16 Items 7 and 10 were pulled, and we will hear Items 1
- 17 revised and 9 by the full Board.
- 18 So we will move first to the Fiscal Consent
- 19 agenda. But I'll first ask Committee Chair Mule from
- 20 the Permitting and Compliance Committee if you have a
- 21 committee report.
- 22 BOARD MEMBER MULE: Good morning. Thank you,
- 23 Madam Chair. Yes, I do.
- We did hear six items. One is for the permit
- 25 for the Redwood Landfill which will be heard today

- 1 before the full Board.
- 2 The other item we heard was the adoption of
- 3 regulations on active disposal site gas monitoring and
- 4 control compliance. Those, obviously, were just passed
- 5 on consents.
- 6 We did hear three compliance orders for the
- 7 following cities: The City of Fireball, the City of
- 8 Compton, and the City of Santa Paula. And those cities
- 9 were recommended for compliance by staff due to the
- 10 fact that they were not adequately implementing their
- 11 programs according to the AB 939 statutes as well as
- 12 our own regulations. All three of those were on
- 13 consent and just passed.
- 14 And then last but not least, we did hear the
- 15 biennial review findings for good-faith efforts for the
- 16 55 jurisdictions that Cara Morgan had just mentioned.
- 17 And if I may, if you will indulge me, I once
- 18 again want to publicly thank Cara, her staff -- Howard,
- 19 with your leadership -- on the extensive evaluation and
- 20 review process that went into this biennial review.
- 21 It was extremely thorough, extremely -- just
- 22 very detailed, very specific. And what I really,
- 23 really found which really helped us with our whole
- 24 process here this year was the fact that our new reorg
- 25 where we actually split up our Local Assistance and our

- 1 Compliance Divisions really helped in the evaluation of
- 2 these jurisdictions.
- 3 So again, I just want to thank staff for all
- 4 their efforts. I want to thank all the jurisdictions
- 5 for their hard work in meeting the AB 939 mandates.
- 6 And that item also was on consent.
- 7 That concludes my report. Thank you.
- 8 CHAIRPERSON BROWN: Great. Thank you,
- 9 Rosalie. Let's see. Strategic Policy Development.
- 10 I'll just report as Committee Chair of that
- 11 committee that Item 7 was pulled. And we heard an
- 12 update on the organics roadmap 1 and 2 in committee.
- 13 And Howard, you and your team are doing an
- 14 excellent job on managing the organics roadmap,
- 15 certainly a priority of this Board, so we'll look
- 16 forward to continuing to plow forward on that. No pun
- 17 intended.
- Then I'll move to the market and
- 19 development -- Market Development and Sustainability
- 20 committee. Chair Petersen.
- 21 BOARD MEMBER PETERSEN: Good morning, Board
- 22 Members. Okay. We had a discussion of California's
- 23 recyclables and commodities markets. Depressing
- 24 situation.
- I will say one thing: I appreciate immensely

- 1 what Howard, you and the staff, did to put the summary
- 2 together on what we talked about at that special panel
- 3 meeting. Bravo. Well done.
- 4 Item 10 was pulled. Items 11, 12, and 13 are
- 5 on Fiscal Consent. And we also had an oral
- 6 presentation on the Tire-Derived Products Business
- 7 Assistance Program in committee only.
- 8 CHAIRPERSON BROWN: Thank you, Gary. So that
- 9 moves us to our first consent item, Item 11. Howard?
- 10 Fiscal Consent? Oh, Jon. Sorry.
- 11 ASSISTANT DIRECTOR MYERS: That's all right.
- 12 Item 11 on Fiscal Consent was presented to --
- 13 sorry, Jon Myers, Office of Public Affairs. Good
- 14 morning.
- 15 Item 11 on Fiscal Consent was presented to
- 16 committee last week with approval of a contractor for a
- 17 public awareness campaign to promote the use of
- 18 tire-derived products.
- 19 Since that time, two proposers that were not
- 20 awarded the contract have filed a formal protest with
- 21 the Department of General Services challenging the
- 22 selection of Ogilvy Public Relations Worldwide as the
- 23 contractor.
- 24 As such, Agenda Item 11 and resolution
- 25 2008-202 have been revised to state that the award of

- 1 this contract to Ogilvy is conditioned upon the
- 2 favorable resolution of that protest currently pending
- 3 before DGS. Thus staff recommends the Board adopt
- 4 Revision 2 of Resolution 2008-202.
- 5 This concludes my presentation. I'd be happy
- 6 to answer any questions regarding the item.
- 7 CHAIRPERSON BROWN: Member Kuehl.
- 8 BOARD MEMBER KUEHL: Yes. Thank you, Madam
- 9 Chair. I have a question to Mr. Myers. What is a
- 10 favorable resolution?
- 11 ASSISTANT DIRECTOR MYERS: Favoring -- pending
- 12 the outcome of Ogilvy as the selection. The favorable
- is Ogilvy as our selected contractor.
- 14 BOARD MEMBER KUEHL: So the resolution that
- 15 we're asked to adopt today makes the award conditioned
- 16 upon a decision that that was an appropriate choice?
- 17 ASSISTANT DIRECTOR MYERS: That Ogilvy was the
- 18 appropriate choice.
- 19 BOARD MEMBER KUEHL: In terms of resolving the
- 20 protest by?
- 21 ASSISTANT DIRECTOR MYERS: The two pending
- 22 protests. Correct.
- 23 BOARD MEMBER KUEHL: Thank you very much,
- 24 Madam Chair.
- 25 CHAIRPERSON BROWN: Howard, did you want to

- 1 add anything or?
- 2 STAFF COUNSEL ARMSTRONG: A proposer actually
- 3 can --
- 4 CHAIRPERSON BROWN: Holly Armstrong with the
- 5 Legal Affairs unit.
- 6 STAFF COUNSEL ARMSTRONG: I'm sorry. I always
- 7 forget.
- 8 Actually, a proposer can only file -- the
- 9 Department of General Services only has jurisdiction to
- 10 hear a protest from a proposer who would have been the
- 11 lowest responsible bidder or the highest scored
- 12 proposal.
- So one of those protests is inappropriate, and
- 14 we'll be filing an objection on jurisdictional grounds
- 15 to one of those protests today. So only one of the
- 16 protests will go forward, just for the Board's
- 17 information.
- 18 CHAIRPERSON BROWN: For clarification. Okay.
- 19 Thank you for clarification.
- 20 I do have one speaker on this item, and that
- 21 is Stacey Smith with AdEase.
- 22 MS. SMITH: Good morning. My name is Stacey
- 23 Smith. I'm the principal of AdEase, and I'm here today
- 24 to speak about our disqualification from the Outreach
- 25 and Education to Promote the Use of Tire-Derived

- 1 Products.
- In a letter we received dated December 2008,
- 3 the California Integrated Waste Management Board
- 4 informed AdEase we were disqualified for not complying
- 5 with the requirements of the RFP.
- 6 In a phone conversation with attorney Holly
- 7 Armstrong, she identified two reasons. The first is
- 8 that we did not charge for external media. The second
- 9 was that we did not charge for supplies, fringe
- 10 benefits and overhead.
- In this conversation, we were told we were one
- 12 of at least three firms that were disqualified for the
- 13 same reason and that not charging for these items
- 14 showed that we, quote, did not know how government
- 15 contracts work.
- 16 The bid process is designed to be fair and
- 17 impartial. Inner workings should be immaterial.
- 18 That aside, AdEase was not unresponsive. We
- 19 clearly responded with zero dollars by inserting a zero
- 20 on the line.
- 21 AdEase is a smaller firm relative to the
- 22 incumbent. Our nimble size allows us to produce
- 23 high-quality work at a lower cost. As a certified
- 24 small business, we can operate with a low overhead and
- 25 do not need to pass along inflated overhead fees.

- 1 Like many companies, our operating expenses
- 2 are rolled into our billable hourly rates; and per the
- 3 instructions on the cost proposal worksheet, the bid
- 4 came complete with a lengthy breakdown down of our
- 5 personal and associated hourly rates.
- 6 Additionally, the pricing form was reissued
- 7 after the question-and-answer session because there was
- 8 so much confusion on it. There was no subsequent
- 9 opportunity to ask for clarification on the reissued
- 10 form.
- 11 In regards to media, the Request For Proposal
- 12 does not specifically request a media buy. The cost
- 13 proposal worksheet makes no request for actual media
- 14 costs. Through the question and answers and the
- 15 recorded conference, it is indicated time and again
- 16 that the media buy should be completed after the CIWMB
- 17 and the hired contractor develop a go-forward strategy.
- 18 My question becomes: If the Board truly
- 19 wanted media buy in the proposal, why was it not
- 20 clearly requested in the outline?
- 21 My final concern is the implication that this
- 22 pricing has on two subsequent proposals. As I'm sure
- 23 you're all aware, the California Waste Management Board
- 24 issued three RFPs for outreach services to be returned
- 25 over the course of a five-week period.

- 1 We invested significant expense on labor, due
- 2 diligence, research, writing, printing and finishing
- 3 with the understanding that this was a fair and
- 4 unbiased process. At the end of the fifth week, on the
- 5 eave before the last proposal was due, disqualification
- 6 notices for the first proposal were issued.
- 7 It's important to note that all three RFPs
- 8 used a similar pricing-ambiguous form, and AdEase
- 9 completed them all in a similar fashion. I can only
- 10 assume the subsequent two proposals will receive the
- 11 same fate.
- 12 We believe the California Integrated Waste
- 13 Management Board improperly disqualified our agency as
- 14 the terms of the proposal -- low bid -- clearly
- 15 contradict the reason for disqualification.
- 16 I question the neutrality of a process that
- 17 eliminates a low bid against its own policy, does so at
- 18 the last minute, and identifies that there was inside
- 19 knowledge necessary to perform the bid.
- 20 With California being \$40 billion in debt, I
- 21 find it reckless that my firm was disqualified because
- 22 I'm not charging the California Integrated Waste
- 23 Management Board for the pen and paper I need to get my
- job done.
- Our bid was competitive because we have a

- 1 passion for the product, a strong belief in the
- 2 benefits of RAC, and an even stronger belief in our
- 3 ability to perform the required tasks.
- 4 I respectfully request the Board look into
- 5 this matter further and take one of the following
- 6 actions: Reinstate the firms who were disqualified and
- 7 determine lowest bidder based on the fees that would be
- 8 charged to the California Integrated Waste Management
- 9 Board, or reissue the Request For Pricing section to
- 10 all firms who have submitted an RFP and allow ample
- 11 opportunity for the bidding firms to ask appropriate
- 12 questions.
- Thank you.
- 14 CHAIRPERSON BROWN: Thank you very much,
- 15 Stacey, for being here.
- I'm going to refer to Elliot on this one. I
- 17 have one question first: Is this a new sheet that
- 18 we've used? Have you just determined a new sheet for
- 19 this, just out of --
- 20 STAFF MEMBER MYERS: No.
- 21 CHAIRPERSON BROWN: -- curiosity.
- 22 ASSISTANT DIRECTOR MYERS: The cost sheet is
- 23 based off the template that we've used in the past.
- 24 It's the same cost sheet that we've been using.
- 25 CHAIRPERSON BROWN: Have we had the same kind

- 1 of disqualifications in the past? Because it seems
- 2 like, if half of the bidders who are disqualified, then
- 3 maybe this sheet isn't clear?
- 4 ASSISTANT DIRECTOR MYERS: I'm trying to
- 5 determine or recall if we've had disqualifications.
- 6 I'd to have actually look to contracts or to Legal to
- 7 see if we had disqualifications before.
- 8 Because in this process, how this worked is
- 9 the determination for disqualification came -- in most
- 10 cases, it'll come before it ever reaches the scoring
- 11 process.
- 12 CHAIRPERSON BROWN: But it wasn't in this
- 13 case.
- 14 ASSISTANT DIRECTOR MYERS: Right.
- 15 CHAIRPERSON BROWN: And they were notified,
- 16 and there was a clarification or a change in the bid
- 17 sheet, it sounds like, midstream so.
- 18 Elliot? Or Holly?
- 19 CHIEF COUNSEL BLOCK: As Holly walks up, to
- 20 the extent that there are some details about the actual
- 21 process they can provide, that's fine.
- 22 All I actually at this point wanted to note is
- 23 that it's important for the Board to keep in mind the
- 24 information you just heard -- and I don't know that
- 25 it's really appropriate for us to argue about the

- 1 substance of that presentation -- that's what DGS will
- 2 be reviewing in the protest, and that's the forum for
- 3 that to occur.
- 4 CHAIRPERSON BROWN: Right.
- 5 CHIEF COUNSEL BLOCK: On some of the broader
- 6 questions -- having said that, the choice is
- 7 actually -- the options for you actually were correctly
- 8 stated.
- 9 You either let that process wend its way
- 10 through, or you could direct staff to start from the
- 11 beginning, redo the RFP, issue a new process and all
- 12 the consequences there.
- 13 But those are kind of the choices for you
- 14 today.
- 15 CHAIRPERSON BROWN: Okay.
- 16 STAFF COUNSEL ARMSTRONG: Holly Armstrong from
- 17 the Legal Office.
- I want to point out that AdEase did not file a
- 19 protest. The appropriate course of action would have
- 20 been to file a protest with GDS, and they did not do
- 21 so.
- 22 (Interruption from the audience)
- 23 CHAIRPERSON BROWN: Stacey, come back.
- 24 STAFF COUNSEL ARMSTRONG: Then there are three
- 25 protests. We haven't received the protest yet.

- 1 CHAIRPERSON BROWN: Well, you have filed the
- 2 protest; you're moving forward:
- 3 MS. SMITH: Yes.
- 4 CHAIRPERSON BROWN: I think that that's -- we
- 5 don't need to debate whether they did or didn't and how
- 6 many are in and how many are out. Because there seems
- 7 to be three who were disqualified, so. Senator Kuehl?
- 8 STAFF COUNSEL ARMSTRONG: There were one that
- 9 was disqualified -- two were that were disqualified
- 10 filed a protest with DGS. One that was not
- 11 disqualified filed a protest with DGS. And that will
- 12 be, as Elliot said, what DGS will determine.
- I did have a conversation with AdEase. All
- 14 they -- what they told me was they filed -- they bid
- 15 for their labor only. It was a \$1.2 million contract,
- 16 and they figured they would have the rest of the
- 17 \$1.2 million to do that media buys and that kind of
- 18 thing.
- 19 So what I explained to them was that they
- 20 didn't understand how the state contracting process
- 21 worked because they wouldn't have the rest of that
- 22 \$1.2 million if the Board awarded them a contract only
- 23 for their labor.
- 24 So it was a fundamental misunderstanding.
- 25 CHAIRPERSON BROWN: It sounds like from her

- 1 testimony though, Holly that, the way she read the RFP,
- 2 that the determination for the media buy would be after
- 3 the awarding of the contract, so --
- 4 STAFF COUNSEL ARMSTRONG: The RFP template is
- 5 one that we have used, and consistently used, for all
- 6 of our contracts.
- 7 CHAIRPERSON BROWN: I understand that. And
- 8 John mentioned that.
- 9 But if there's three people who are
- 10 disqualified out of six, then maybe we need to relook
- 11 at some of the scoring sheets or look at it because --
- 12 STAFF COUNSEL ARMSTRONG: But they weren't all
- 13 disqualified on that basis. And we will review the
- 14 scoring sheet, but this --
- 15 CHAIRPERSON BROWN: Okay.
- 16 STAFF COUNSEL ARMSTRONG: This
- 17 determination was --
- 18 CHAIRPERSON BROWN: I don't know if we need to
- 19 sit here and debate this. This is not the forum for
- 20 you and I or any of the Board Members to have a
- 21 discussion about what did or didn't happen at this
- 22 point.
- We will ask questions, and we will make a
- 24 determination from the dais, and we will direct staff
- 25 from that point on.

- I do have a question from Senator Kuehl.
- BOARD MEMBER KUEHL: Thank you, Madam Chair.
- 3 Please forgive me if I should know the answer to this,
- 4 but I'll just beg off being new, and maybe Mr. Petersen
- 5 can also answer. But I have a process question.
- 6 When we first got the materials for this
- 7 meeting, the contractor was TBD. And then the new
- 8 papers came and said, you know, Ogilvy and what the
- 9 amount would be.
- 10 What was the process for selecting them as the
- 11 contractor? Or what is the process?
- 12 CHAIRPERSON BROWN: Elliot?
- 13 CHIEF COUNSEL BLOCK: Oh my.
- BOARD MEMBER PETERSEN: Or John.
- 15 CHAIRPERSON BROWN: Or John.
- 16 CHIEF COUNSEL BLOCK: Well, there is a long
- 17 answer and a short answer. So I'm not going to give
- 18 you the long --
- 19 BOARD MEMBER KUEHL: I'll take the long answer
- 20 if you don't mind. I've got plenty of time. I'll take
- 21 the long answer.
- 22 CHIEF COUNSEL BLOCK: Well, the long answer, I
- 23 mean -- when I talk long answer, we've actually made
- 24 presentations to the Board, you know, an hour-long
- 25 presentation that the head of the administration

- 1 division and I have made about the contracting process
- 2 and how that runs through. So there's a lot of details
- 3 involved.
- 4 The short answer is: We issue an RFP, it has
- 5 the conditions that we want, we use a scoring panel
- 6 that scores the proposals compared to what has been put
- 7 in the RFP --
- 8 BOARD MEMBER KUEHL: Forgive me for
- 9 interrupting. I do understand that process.
- 10 The question went to this particular
- 11 contractor and what happened between TBD and putting
- 12 their name in.
- 13 CHIEF COUNSEL BLOCK: Oh, okay. I'm sorry, I
- 14 misunderstood.
- 15 BOARD MEMBER KUEHL: I'm sorry. I wasn't
- 16 clear.
- 17 CHIEF COUNSEL BLOCK: The timing is such that
- 18 the date for selecting the contractor was subsequent to
- 19 the committee meeting. Subsequent to the printing of
- 20 the committee meeting $\operatorname{--}$ the agenda items.
- 21 CHAIRPERSON BROWN: The agendas are printed
- 22 about a month, maybe three weeks in advance.
- 23 BOARD MEMBER KUEHL: So there were three
- 24 bidders who were considered, and this one was chosen.
- 25 CHIEF COUNSEL BLOCK: Right.

1 CHAIRPERSON BROWN: But it sounds like all six

- 2 were scored, then three were disqualified, and then
- 3 Ogilvy was chosen from the remaining three, and that
- 4 determination wasn't made until two or -- the Thursday
- 5 prior to the committee meeting.
- 6 CHIEF COUNSEL BLOCK: Correct.
- 7 CHAIRPERSON BROWN: So a reissued agenda item
- 8 with the actual name of the winner, of the recipient,
- 9 was in it.
- 10 BOARD MEMBER KUEHL: Thank you, Madam Chair.
- 11 CHAIRPERSON BROWN: Any other questions?
- BOARD MEMBER PETERSEN: No.
- 13 CHAIRPERSON BROWN: At this point, I'm not
- 14 comfortable personally. I mean I can speak on my own
- 15 behalf. I am not comfortable with three people being
- 16 disqualified and however many in or out in the DGS
- 17 process moving forward with the contractor.
- 18 If -- and I'd like to hear from my fellow
- 19 Board Members as well to determine whether we have
- 20 consensus whether to start over this entire process.
- 21 EXECUTIVE DIRECTOR LEARY: Madam Chair, before
- 22 you do, may I suggest that there's no urgency with
- 23 awarding this contract.
- 24 CHAIRPERSON BROWN: Okay.
- 25 EXECUTIVE DIRECTOR LEARY: I could simply pull

- 1 this consideration of this item at this time, put it
- 2 over to next month. If after my evaluation and our
- 3 chief counsel's evaluation it is worthy of your
- 4 consideration, and if we think the process was still
- 5 strong enough that we want to go forward with this
- 6 recommendation, we'll bring it back next month.
- 7 If not, we may choose to invalidate the
- 8 process and begin again.
- 9 CHAIRPERSON BROWN: So the determination at
- 10 this point is you would like to -- what I'm hearing
- 11 from you is you would like to review the process that
- 12 was undertaken in the contracting to determine if
- 13 everything was followed.
- 14 EXECUTIVE DIRECTOR LEARY: I would, Madam
- 15 Chair. Given the lateness --
- 16 CHAIRPERSON BROWN: Before we --
- 17 EXECUTIVE DIRECTOR LEARY: -- of the
- 18 development of these items, I haven't been fully
- 19 briefed on this. And I'd like that opportunity. And
- then we can go forward as I choose to in January.
- 21 CHAIRPERSON BROWN: Okay. And we can then
- 22 make the determination at that point that we want to
- 23 reopen the entire process and allow for a whole new
- 24 contracting process.
- 25 BOARD MEMBER PETERSEN: Madam Chair, I concur

- 1 with what Mark wants to do.
- 2 CHAIRPERSON BROWN: Okay.
- BOARD MEMBER KUEHL: How does that comport,
- 4 then, with the DGS process?
- 5 Because the three who are protesting are
- 6 called upon then to go forward with the protest if we
- 7 just put this off for a month.
- 8 I understand what Mr. Leary has indicated, but
- 9 I wonder whether that's sort of fair to them. My
- 10 preference would be to start over. But I do -- I'll
- 11 defer, of course, since I should.
- 12 EXECUTIVE DIRECTOR LEARY: I appreciate that
- 13 preference, and I understand it.
- I think while I'm evaluating this process the
- 15 protest could also go forward, and I will consider the
- 16 merits of the protest and the decision by DGS as part
- 17 of my decision to bring this back before the Board.
- 18 We have time, basically, to fully evaluate
- 19 this process.
- 20 CHAIRPERSON BROWN: John?
- 21 BOARD MEMBER LAIRD: Let me, if I can,
- 22 Mr. Leary, ask the question a different way which is:
- 23 If there is a problem in the process, does going ahead
- 24 with the protest compound the error? Does that move it
- 25 ahead in another forum where it might preclude some

- 1 places we could go or dig it deeper in when, if the
- 2 sentiment is to look at this, and you make an
- 3 independent analysis that it should start over, there's
- 4 no action that's been taken to stop the appeal process,
- 5 and then that moves ahead and maybe that just makes it
- 6 harder. So I think that was the unanswered question.
- 7 EXECUTIVE DIRECTOR LEARY: I think at this
- 8 point there are fundamentally two choices: If you
- 9 concur with my thinking that we can pull this item,
- 10 it's not before the Board for consideration, thus the
- 11 contract has not been awarded. There's nothing to
- 12 protest.
- So the protest would not go forward if, in my
- 14 evaluation, the process was flawed or it was
- 15 inappropriate in some way.
- Then we would in fact start all over again,
- 17 and the protesting potential contractors would have the
- 18 opportunity to bid and be successful in that bid.
- 19 CHAIRPERSON BROWN: Let me throw another
- 20 option out there then. If the Board directs staff to
- 21 set aside this round, directs you to evaluate the
- 22 entire contracting process as it pertains to media buys
- 23 and these types of contracts, you evaluate the program
- 24 still, and we also start a new process?
- 25 EXECUTIVE DIRECTOR LEARY: That's another

- 1 option.
- 2 CHAIRPERSON BROWN: Just set aside the
- 3 contract. There is enough uncertainty, it sounds like,
- 4 from the dais on this current process for whatever
- 5 reasons.
- 6 And I think it probably achieves all of the
- 7 objectives if we ask you to go back and more thoroughly
- 8 evaluate either the scoring criteria, the process, how
- 9 things were determined, and how things are interpreted
- 10 and looked at, and then start the process over again
- 11 from there after your evaluation.
- 12 EXECUTIVE DIRECTOR LEARY: I have no problem
- 13 with that. The option I was offering keeps this
- 14 process together.
- 15 But it's certainly within your authority to at
- 16 this point devalue that process, direct us to start
- 17 over again, and give me the direction that you just
- 18 suggested you would give me. I'm comfortable with that
- 19 also.
- 20 CHAIRPERSON BROWN: Okay. Is that all right?
- 21 I think that will allow us to move forward more
- 22 expeditiously. Have you review it and then make the
- 23 process start --
- 24 EXECUTIVE DIRECTOR LEARY: Okay.
- 25 CHAIRPERSON BROWN: -- in January. Okay?

- 1 EXECUTIVE DIRECTOR LEARY: Understood.
- 2 CHAIRPERSON BROWN: So. Thank you very much.
- 3 That takes care of agenda Fiscal Consent Item 11, and
- 4 we'll move next to Fiscal Consent Item 12.
- I believe that's Howard.
- 6 DEPUTY DIRECTOR LEVENSON: Good morning, Madam
- 7 Chair and Board Members, and welcome Senator Kuehl and
- 8 Assemblyman Laird. Happy to have you here and look
- 9 forward to working with you.
- 10 I'm Howard Levenson, Director of the Board's
- 11 Sustainability Program.
- 12 Item 12 is consideration of grant awards for
- 13 the Reuse Assistance Grant Program. And the intent of
- 14 this grant program is to bolster activities at the
- 15 local level to support waste prevention efforts which
- 16 is really at the top of our AB 939 hierarchy.
- We have a very limited amount of funding
- 18 that's available for this program, \$250,000 on an
- 19 annual basis. We can provide up to \$50,000 for
- 20 qualifying applicants; and the applicants have to be
- 21 local agencies, local public agencies, although they
- 22 can have a partnership with nonprofits and businesses.
- 23 This year we received 13 applications for the
- 24 grant cycle. Nine were determined to be eligible for
- 25 funding, but the funding requests far exceeded the

- 1 \$250,000 that was available.
- 2 So we are recommending that the Board consider
- 3 and approve the awards to fully fund the five
- 4 highest-scoring applications that are listed in
- 5 attachment one.
- If any of those grantees opt out of the
- 7 program, those allocated funds could then be spent or
- 8 granted to the next applicant on the list in order of
- 9 their ranking.
- 10 And we will -- I would suggest that we revise
- 11 the resolution to clarify that those additional monies,
- 12 should a grantee opt out, would be available, to add in
- 13 that one phrase. This would be consistent with the
- 14 phrasing in the next item on Household Hazardous Waste
- 15 grants.
- 16 CHAIRPERSON BROWN: Clarification: Elliot, do
- 17 we need to add that to the record specifically, or is
- 18 this a new resolution 2008-197 revised to therefore
- 19 include the recommendation from Howard that if somebody
- 20 chooses to opt out of the program, then the next
- 21 available awarded grantee could assume those funds?
- 22 EXECUTIVE DIRECTOR LEVENSON: That's correct.
- 23 That's how we interpret it. I think just for
- 24 clarification, it's better to have that phrasing in the
- 25 resolution.

- 1 CHAIRPERSON BROWN: Okay.
- 2 DEPUTY DIRECTOR LEVENSON: With that, we
- 3 recommend that you approve Option 1 and adopt
- 4 Resolution No. 2008-197, and then we will revise it
- 5 subsequent to the Board meeting to add that phrase.
- 6 CHAIRPERSON BROWN: Okay. Any questions from
- 7 any Board Members regarding Item 12? Okay. Can I have
- 8 a motion?
- 9 BOARD MEMBER PETERSEN: Yes, Madam Chair. I
- 10 move this issue, 2008-197 revised.
- BOARD MEMBER MULE: Second.
- 12 CHAIRPERSON BROWN: It's been moved by Member
- 13 Petersen and seconded by Member Mule. Kristen, can you
- 14 call the roll?
- BOARD SECRETARY GARNER: Kuehl?
- BOARD MEMBER KUEHL: Aye.
- 17 BOARD SECRETARY GARNER: Laird?
- BOARD MEMBER LAIRD: Aye.
- 19 BOARD SECRETARY GARNER: Mule?
- BOARD MEMBER MULE: Aye.
- 21 BOARD SECRETARY GARNER: Petersen?
- BOARD MEMBER PETERSEN: Aye.
- BOARD SECRETARY GARNER: Brown.
- 24 CHAIRPERSON BROWN: Aye. The resolution
- 25 passes. And we will move next to consent item --

- 1 Fiscal Consent Item 13. Howard again.
- 2 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
- 3 Chair. This item is the consideration of the grant
- 4 awards for the Household Hazardous Waste grant program.
- 5 And I'd like to just briefly explain what the intent of
- 6 that program is.
- 7 This was a program that was set up in the late
- 8 1980s and amended by the Legislature in the early
- 9 1990s. It provides grants to local jurisdictions --
- 10 cities, counties, and other public agencies -- to
- 11 reduce the amount of Household Hazardous Waste that's
- 12 disposed of in solid waste landfills.
- This is a very critical issue for many, many
- 14 jurisdictions because product after product has now
- 15 been banned from landfills, your lamps, batteries,
- 16 mercury-containing products, home-generated sharps.
- 17 There's a longer list.
- 18 But the costs of handling these kinds of
- 19 products at Household Hazardous Waste programs
- 20 probably, at least a back-of-the-envelope calculation,
- 21 several hundred million dollars a year, probably higher
- 22 than that, at the local level.
- 23 Clearly our \$5 million grant program is a drop
- 24 in the bucket. It's important because it does
- 25 establish Best Management Practices and helps to get

1 some household -- permanent Household Hazardous Waste

- 2 facilities up and running.
- 3 But it can't solve the entire problem. That's
- 4 one of the reasons, just as a sidebar, why the Board
- 5 has had as a priority Strategic Directive 5 to look at
- 6 the development of an Extended Producer Responsibility
- 7 framework which we've had extensive discussions on over
- 8 the last years -- two years -- and which a lot of local
- 9 jurisdictions support. But that is tangential to this
- 10 item.
- 11 So I do want to mention that the last
- 12 Household Hazardous Waste cycle and this one included
- 13 the priority for Extended Producer Responsibility
- 14 programs, and we do have some programs that are
- 15 recommended that cover that kind of activity.
- We had 18 grant applications representing 66
- 17 jurisdictions and totaling just about \$5 million that
- 18 we're proposing for this award. They're listed in
- 19 Attachment 1. And I'd like to recommend Option 1 and
- 20 that the Board adopt Resolution No. 2008-198 Revision
- 21 No. 2. Thank you, Madam Chair.
- 22 CHAIRPERSON BROWN: Thank you, Howard. Do we
- have any questions? Anybody?
- 24 BOARD MEMBER PETERSEN: Madam Chair, I'd like
- 25 to move motion 2008-198 revised -- Revision No. 2.

- 1 BOARD MEMBER MULE: Second.
- 2 CHAIRPERSON BROWN: It's been moved by Member
- 3 Petersen seconded by Member Mule. Kristen, can you
- 4 call the roll?
- 5 BOARD SECRETARY GARNER: Kuehl?
- 6 BOARD MEMBER KUEHL: Aye.
- 7 BOARD SECRETARY GARNER: Laird?
- 8 BOARD MEMBER LAIRD: Aye.
- 9 BOARD SECRETARY GARNER: Mule?
- BOARD MEMBER MULE: Aye.
- BOARD SECRETARY GARNER: Petersen?
- BOARD MEMBER PETERSEN: Aye.
- BOARD SECRETARY GARNER: Brown.
- 14 CHAIRPERSON BROWN: Aye. The motion passes.
- 15 And that concludes our -- I think that concludes our
- 16 Fiscal Consent agenda, and we can move next to full
- 17 Board Item No. 1. Good.
- 18 MR. RAUH: Thank you, Madam Chair. I'm Ted
- 19 Rauh, the Director of the Waste Compliance and
- 20 Mitigation program.
- 21 And on behalf of myself and the program, we
- 22 certainly also want to welcome our two new Board
- 23 Members. Really looking forward to working with both
- 24 of you as the years roll by.
- While the staff is joining me up here I'd just

Please note: These transcripts are not individually reviewed and approved for accuracy.

- 1 like to quickly introduce this item. This is
- 2 consideration of a revised full solid waste facilities
- 3 permit for the Redwood Landfill in Marin County.
- 4 And today we're going to hit you with a
- 5 barrage of brief presentations, starting first with the
- 6 Project Manager for the permit who will give us a quick
- 7 overview of the permit itself -- the facility itself.
- 8 So that's in front of you, and that will be presented
- 9 by Reinhard Hohlwein.
- 10 We'll then slip to legal counsel and have a
- 11 quick overview of some of the legal issues. First, our
- 12 basic responsibilities here -- or your responsibilities
- 13 for this particular action -- coupled with some CEQA
- 14 issues and other things that have been raised that deal
- 15 with legal authority of the Board and findings that you
- 16 would make in moving forward with this item.
- We'll then return to the staff for a more
- 18 in-depth discussion of some of the issues that have
- 19 been raised, and many of those you've seen in the
- 20 context that have come in from members of the affected
- 21 public.
- We'll also hear from the LEA representative on
- 23 their process and in turn how they've dealt with the
- 24 same issues in developing the permit that's before you
- 25 today.

- 1 Finally, we'll come back for a quick overview
- of the findings again, and then at that point we'll be
- 3 open to either questions or hearing from the public, at
- 4 your pleasure.
- 5 So with that I'll turn it over to Reinhard.
- 6 MR. HOHLWEIN: Good morning, Madam Chair and
- 7 Board Members.
- 8 This item regards the issuance of a revised
- 9 solid waste facilities permit for the Redwood Landfill
- 10 which is located north of Novato off of Highway 101 in
- 11 the northeastern portion of Marin County.
- 12 This permit package was forwarded to Board
- 13 staff on November 17th which gives the Board 60 days
- 14 until January 16, 2009 to take action on the proposal.
- 15 I'm going to give a brief presentation of the
- 16 history and status of the current permit, and then the
- 17 LEA will briefly recount the local hearing process
- 18 which entailed the many hearings and meetings that have
- 19 been associated with the development of the EIR and the
- 20 permit itself. She'll also respond to some of the
- 21 comments received regarding this permit.
- In 1958, the county issued its only use permit
- 23 for the facility. That continues in existence today.
- 24 Then in 1978, the first solid waste facilities
- 25 permit was issued.

- 1 In 1995, that permit was revised for the first
- 2 time.
- 3 In 1996, the registration permit for the
- 4 composting facility which is also located on the
- 5 landfill was issued.
- 6 In 1998, an application for the operator for a
- 7 permit revision was submitted.
- 8 In 1999, the EIR process was initiated again
- 9 which went into this year, 2008, with all the product
- 10 modifications of the environmental review.
- 11 And in 2008, the final EIR was completed and
- 12 the application was submitted to the Board.
- 13 The landfill is a Class III landfill. It has
- 14 a total of 420 acres. 210 acres are permitted for the
- 15 landfill footprint. The permitted height will not
- 16 change; it's 166 feet maximum. And the remaining
- 17 acreage at the site is used for biosolids processing,
- 18 composting, and landfill infrastructure.
- 19 The facility has two other major permits
- 20 issued by other state agencies. The Waste Discharge
- 21 Requirements are issued by the San Francisco Bay
- 22 Regional Water Quality Control Board. And it has two
- 23 permits to operate issued by the Bay Area Air Quality
- 24 Management District.
- 25 The proposed changes include combining the

- 1 existing landfill and composting permits into one;
- 2 increasing the capacity of the disposal unit of the
- 3 landfill from 19.1 to 26.1 million cubic yards
- 4 including all cover material; changing the closing date
- 5 from 2016 to 2024; increasing the vehicles allowed per
- 6 day from 415 to 662; changing the slope configuration
- 7 to give the site modest amounts of capacity -- there is
- 8 no change in the footprint; adding food waste as a
- 9 compost feedstock; implementing all mitigation measures
- 10 that are identified in the FEIR and are under the
- 11 jurisdiction of the LEA; and change tonnage
- 12 allocations.
- 13 Hope you can read that chart. It seems a
- 14 little blurry. But the chart on the left, or the file
- on the left, indicates that in the past there was 2300
- 16 tons of waste allowed, but most of it or a good deal of
- 17 it was in the form of sludge or biosolids.
- 18 And that has been greatly reduced, and the
- 19 facility is now embracing more recycling. And
- 20 composting has been also reduced, but that is a
- 21 function of diversion as well as handling.
- The mitigations associated with the FEIR come
- 23 to a total of 63 pages. Some of those mitigations are
- 24 under the LEA's regulatory authority. Many are related
- 25 to water quality. Many are related to air quality.

- 1 There is a 200-foot setback from San Antonio
- 2 Creek for future waste placement. There's improved
- 3 access for public self-haul reuse and recycling.
- 4 There will be a construction and demolition
- 5 debris recycling facility built, and that will
- 6 eventually be under a separate permit.
- 7 And there are onsite photovoltaics and
- 8 landfill gas-to-energy resources which will enable more
- 9 energy recovery.
- 10 At the bottom, it notes that that revised
- 11 Waste Discharge Requirements are likely to be heard by
- 12 the Bay Area Water Quality Board in the late spring of
- 13 2009.
- 14 I'm going to turn this over to Elliot now.
- 15 CHIEF COUNSEL BLOCK: Thank you. I'm just
- 16 providing a little bit of context here as the rest of
- 17 the presentations and then public testimony proceeds,
- 18 and just wanted to remind everybody to keep in mind the
- 19 limited scope of the Board's authority on proposed
- 20 permits.
- 21 Statute provides that the Board may only
- 22 object to a proposed solid waste facility permit if it
- 23 does not meet the requirements of Public Resources Code
- 24 Section 44009.
- To paraphrase that statute as it applies to

- 1 this permit, the Board can only object to this proposed
- 2 permit if it is not consistent with the Board's state
- 3 minimum standards as set out in our regulations; the
- 4 financial responsibility requirements for public
- 5 liability; the financial assurance requirements for
- 6 closure and post-closure maintenance; and the
- 7 conformance finding requirements.
- 8 In addition, under the California
- 9 Environmental Quality Act, the Board can object if the
- 10 proposed project will have significant effects on
- 11 matters that are within the Board's authority to
- 12 regulate that cannot otherwise be avoided or mitigated.
- 13 Conversely, concerns about other matters such
- 14 as air and water emissions would not be within the
- 15 scope of the Board's authority, would not be relevant
- 16 to the Board's action, and the Board could not rely on
- 17 testimony about these matters in reaching its decision
- 18 to concur in or object to this permit.
- 19 CHAIRPERSON BROWN: All right.
- MR. HOHLWEIN: Thank you, Elliot.
- 21 CHIEF COUNSEL BLOCK: Apparently now, we're
- 22 going to start talking about some of the specific
- 23 issues that have been raised in some of the testimony
- 24 and letters that have been received and the like.
- 25 So starting off with the first one,

- 1 conformance finding. The opponents of this permit have
- 2 argued that it is not in compliance with conformance
- 3 finding requirements of our statute because the
- 4 facility is not listed in the nondisposal facility
- 5 element.
- 6 This argument is based on a misunderstanding
- 7 of the role of the nondisposal facility element which
- 8 is a planning document to provide public notice and not
- 9 a permitting document.
- 10 As noted in the agenda item, the composting
- 11 facility is identified and described in the county-wide
- 12 summary plan, and the summary plan is a document that
- 13 actually requires greater public notice than the
- 14 nondisposal facility element. It actually requires
- 15 30-day public notice rather than three-day public
- 16 notice.
- 17 It requires greater public approval than the
- 18 nondisposal facility element. It actually requires
- 19 majority approval of the cities within the county plus
- 20 the county as opposed to just simply one city's
- 21 approval of their nondisposal facility element.
- 22 And it requires CEQA compliance, whereas the
- 23 nondisposal facility element is actually exempt from
- 24 CEQA compliance.
- 25 Furthermore, and it has been raised in the

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- 1 past, that the local task force should be allowed to
- 2 review this facility. The local task force did review
- 3 and comment on the summary plan where this facility is
- 4 identified.
- 5 And finally, of course, this facility has been
- 6 mentioned, has been in existence -- the composting part
- 7 of this facility has been in existence for over ten
- 8 years.
- 9 So certainly there has been ample public
- 10 notice and discussion about this facility to meet the
- 11 Board's requirements, and that's why staff has
- 12 recommended that the Board find compliance with that
- 13 requirement.
- 14 Let me pause for a second. If anybody has any
- 15 questions about the conformance findings. The staff
- 16 also wanted me to talk about the AB 59 appeal and some
- 17 timing issues, but.
- 18 CHAIRPERSON BROWN: I think we're good. So
- 19 move forward on AB 59.
- 20 CHIEF COUNSEL BLOCK: The opponents of this
- 21 permit have argued that the Board should delay its
- 22 decision until January to allow the AB 59 appeal
- 23 hearing to take place before the Board makes its
- 24 decision. That appeal, as I understand it, is
- 25 currently scheduled for Friday.

1 There are a number of issues that are relevant

- 2 for this issue. First, as noticed in the agenda item
- 3 and was mentioned last week, this permit is scheduled
- 4 to be heard today because statute requires the Board to
- 5 act within 60 days. The 60th day on this permit would
- 6 be January 16th. Currently, the Board's January
- 7 meeting is actually scheduled for the 21st, five days
- 8 after that day.
- 9 The most important part of that 60-day time
- 10 limit is that if the Board fails to act within that 60
- 11 days it's actually deemed to have concurred by
- 12 operation of law. So if the Board doesn't act before
- 13 that 60 days are up, you are actually concurring by
- 14 virtue of not making a decision.
- 15 Secondly, while the appeal hearing has been
- 16 scheduled for this Friday, there is actually no
- 17 guarantee that there will be a decision from that
- 18 hearing panel prior to the Board's hearing in January.
- 19 It's very common for these administrative
- 20 hearings to take more than one day; it depends on the
- 21 available of witnesses. We have -- the Board itself,
- 22 on hearing some appeals, has dealt with a number of
- 23 these AB 59 appeals where the hearings have lasted a
- 24 number of months.
- 25 So just simply waiting for Friday doesn't mean

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- 1 there would be a decision by January. And again, we're
- 2 running up against that 60-day time clock. The only --
- 3 and I neglected to mention this -- the only way that
- 4 60-day time clock goes away is if the operator were to
- 5 waive their time.
- 6 The Board can't on its own push that time,
- 7 that 60 days, back.
- 8 Finally, and perhaps the most important, any
- 9 decision by the Hearing Officer would be appealable to
- 10 the Board. This is all part of the Board's process.
- 11 And this would end up resulting in the Board hearing an
- 12 appeal covering the same issues that it's hearing about
- 13 today.
- 14 The appeal is based on a claim that the LEA
- 15 has not complied with law in bringing the proposed
- 16 permit forward. Any issues that would be a part of
- 17 that hearing, if they are relevant to the Board's
- 18 decision, can and should be raised today with the Board
- 19 and not wait for that hearing.
- There is no information that could be
- 21 presented at that local hearing that could not be
- 22 presented at today's hearing, and the Board doesn't
- 23 need to wait for the Hearing Officer's decision for it
- 24 to hear the information to be presented and make its
- 25 decision.

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- 1 And I don't know if you had any questions
- 2 about any those issues. If not, I'll --
- 3 CHAIRPERSON BROWN: I don't think so.
- 4 CHIEF COUNSEL BLOCK: I think there's a few
- 5 other specifics that staff wanted to talk about.
- 6 CHAIRPERSON BROWN: John?
- 7 BOARD MEMBER LAIRD: Yes, I have one question,
- 8 and I'll try to be clear about an unclear topic.
- 9 Because I think that the -- the concern about
- 10 postponing it wasn't fully addressed, not because you
- 11 didn't fully address the issue, but because I think the
- 12 belief is that if we act today it prejudices whatever
- 13 the hearing might be, the outcome, on Friday.
- 14 And yet the real issue is that we can only act
- 15 within the authority that we are granted which is
- 16 different than the authority under which the appeal
- 17 hearing would be held on Friday.
- 18 The thing that just confused me a little bit
- 19 in what you said is that they then could appeal the
- 20 outcome of the hearing on Friday to us. But if they
- 21 appeal it to us on the outcome of that, they're
- 22 actually appealing it on the same authority that we
- 23 would have on acting today, not on what the authority
- 24 is of the jurisdiction that will hear the hearing on
- 25 Friday.

1 It's just whether our authority was violated

- 2 by how they acted on the appeal on Friday. That's
- 3 where I got confused, is the ability to appeal
- 4 something that's acted on in a different basis to us.
- 5 CHIEF COUNSEL BLOCK: Perhaps it was the way I
- 6 described that.
- 7 The Hearing Officer's determination --
- 8 authority -- is actually -- the Hearing Officer would
- 9 be dealing with the same issues and the same scope of
- 10 authority that you're dealing with today.
- 11 The appeal is that the LEA hasn't acted in
- 12 compliance with our statutes and regulations in how it
- 13 has brought this permit forward. It's the same basis
- 14 that should be looked -- raised today. It is actually
- 15 the same decision.
- 16 CHAIRPERSON BROWN: I think you need to
- 17 clarify Member Laird's question and concern that by
- 18 acting today we're prejudicing a process before it
- 19 happens.
- 20 CHIEF COUNSEL BLOCK: Okay.
- 21 Well, the way our statute is set up, the
- 22 appeal process and Board's decision-making are
- 23 independent.
- In other words, if there is another outcome
- 25 that comes out of that hearing, we would --

- 1 CHAIRPERSON BROWN: It would then come back --
- 2 it would come back to us if there was a determination
- 3 in the appeal that the LEA did not act appropriately,
- 4 and then the permit would come back to us as a revised
- 5 permit at that point.
- 6 CHIEF COUNSEL BLOCK: Potentially. It
- 7 obviously depends on what the outcome of that hearing
- 8 is. It depends on whether it's appealed to us or not.
- 9 CHAIRPERSON BROWN: The other question I
- 10 have --
- 11 CHIEF COUNSEL BLOCK: The concern -- let me
- 12 before I lose this point -- the real important point
- 13 that I'm trying to raise is that to the extent that the
- 14 argument is the Board should wait for that hearing to
- 15 occur so that it can get all the information it needs
- 16 to make a decision, there is no reason that all of that
- 17 information cannot and should not be presented today
- 18 for you to actually make your decision.
- 19 CHAIRPERSON BROWN: And we assume that it's
- 20 being presented today by the public and has been, over
- 21 the course of the last several weeks, in input to the
- 22 Permitting Committee as well as to the Board.
- 23 CHIEF COUNSEL BLOCK: This is their
- 24 opportunity to do that.
- 25 CHAIRPERSON BROWN: Okay.

1 The other question I have is: I know when we

- 2 have been the appeal body, there is no determination as
- 3 to when a decision is issued even if the hearing takes
- 4 one, two days. Even if the hearing were to occur in
- 5 one day, we still don't have any determination that a
- 6 decision would be issued prior to our required acting
- 7 on this permit. Correct?
- 8 CHIEF COUNSEL BLOCK: The Hearing Officer --
- 9 unlike the normal administrative process, the Hearing
- 10 Officer, once the hearing is closed, does have to issue
- 11 a decision within -- I believe it's five days. It's a
- 12 fairly short time frame.
- 13 However, then there are time periods involved
- 14 there with appeals. They have 15 days to file an
- 15 appeal. For that, the Board has 30 days to decide
- 16 whether to even hear that appeal. It's a lot of
- 17 process involved with hearing appeals.
- 18 And again, I don't mean to sound like a broken
- 19 record, but the substantive information that's relevant
- 20 for the Board --
- 21 CHAIRPERSON BROWN: Will be heard today.
- 22 CHIEF COUNSEL BLOCK: That information can be
- 23 heard today. There isn't any reason that the Hearing
- 24 Officer hearing -- the Hearing Officer-conducted
- 25 hearing can or will get information that shouldn't be

- 1 made available for you today in making your decision,
- 2 for you to want to wait for that decision. They don't
- 3 have other --
- 4 CHAIRPERSON BROWN: Right. So what I'm
- 5 hearing you say is that all the testimony is likely to
- 6 be heard today, so we will make a determination.
- 7 The Hearing Officer on Friday will hear all
- 8 the same information and any potential new information
- 9 that comes to light between now and then.
- 10 If they make a determination different than
- 11 what this Board may make today, then the opponents
- 12 would then have an opportunity to appeal the Hearing
- 13 Officer back to the Board, and we would reconsider it
- 14 at that point, our determination presumably today as
- 15 well as the Hearing Officer's.
- 16 CHIEF COUNSEL BLOCK: Correct.
- 17 CHAIRPERSON BROWN: Okay.
- 18 BOARD MEMBER KUEHL: One further question, and
- 19 that is: If we were not to approve this item today, it
- 20 seems to me you also indicated to us that on
- 21 January 16th we would be deemed to have approved it.
- 22 CHIEF COUNSEL BLOCK: If you -- if the Board
- 23 doesn't take action, you would be deemed to have
- 24 approved on the 16th. The Board has to either concur
- 25 or object within the 60 days. So you used the word not

- 1 approved. So that -- that's why I'm explaining this a
- 2 little bit more.
- 3 It takes four votes for any action of the
- 4 Board either to concur or object. It's actually
- 5 specifically called out that way in statute. It's not
- 6 a simple majority.
- 7 So failure to act either because you put this
- 8 item off or because there aren't four votes one way or
- 9 the other would be nonaction; and then when that 60
- 10 days occurs, you would be deemed to have concurred.
- 11 BOARD MEMBER KUEHL: Thank you, Madam Chair.
- 12 CHAIRPERSON BROWN: Okay. With that
- 13 information, let's move forward to hear the item, and
- 14 we can make a determination if we choose to do
- 15 something different other than act on this permit.
- MR. RAUH: At this point then, we'll just
- 17 continue with the more detailed discussion of the
- 18 issue.
- 19 CHAIRPERSON BROWN: Thank you. I appreciate
- 20 that. Go ahead.
- MR. HOHLWEIN: Many thanks, Elliot. We
- 22 appreciate that.
- 23 Prior to and during the permitting -- and
- 24 after the Permitting and Compliance Committee meeting
- 25 last week, staff have been reviewing and researching

- 1 issues brought to our attention including e-mails,
- 2 testimony, and letters, of all of which have been
- 3 provided to the Committee and Board Members.
- 4 In response to these concerns, I'll respond to
- 5 some of them. The LEA will address most of the
- 6 technical questions. Legal staff will address still
- 7 others.
- 8 I will be providing staff's response to issues
- 9 raised relative to the report of compost facility
- 10 information, financial assurances, closure plans and
- 11 air quality, sea level rise and containment levees, and
- 12 seismic stability analysis.
- 13 The first issue raised is that the Report of
- 14 Compost Site Information does not meet minimum
- 15 standards. Staff have again reviewed the RCSI and find
- 16 that it does, along with the other conditioning
- 17 documents, meet the requirements.
- 18 This issue was brought to the attention of the
- 19 LEA in October, and the LEA responded to it at that
- 20 time.
- 21 The second issue is related to financial
- 22 assurances. Staff have found that the financial
- 23 assurance mechanisms are funded and meet the
- 24 requirements as required by the regulations. The
- 25 corrective action funding that is in place is at an

- 1 amount determined by the Regional Water Quality Control
- 2 Board.
- 3 Third, there were questions related to the
- 4 closure plans and air quality. Staff have again
- 5 reviewed the closure plan and have found the plan to be
- 6 consistent with state minimum standards.
- 7 A gas monitoring and control system is
- 8 described within that closure plan that will meet the
- 9 requirements to monitor and control for landfill gas
- 10 migration. These requirements for gas monitoring and
- 11 control are to ensure there is little or no lateral
- 12 migration of landfill gas offsite. The general
- 13 emissions directly to the atmosphere are under the
- 14 purview of the Bay Area Air Quality Management
- 15 District.
- 16 Fourth are concerns relative to global
- 17 warming, sea level rise, and the levees surrounding the
- 18 site. Staff have reviewed the CEQA record, the permit
- 19 application package, and have examined the information
- 20 developed by the San Francisco Bay Conservation and
- 21 Development Commission relative to issues associated
- 22 with potential sea level rise in the north bay area.
- 23 Staff understands that there are estimates
- 24 that the sea level may rise as much as 35 inches in the
- 25 North Bay by the year 2100. The levees are currently

- 1 nine feet above mean sea level. This would seem to
- 2 indicate that the next 90 or so years -- in the next 90
- 3 or so years, the levees will only be six feet above
- 4 mean sea level.
- 5 It is staff's understanding that when the WDRs
- 6 -- the Waste Discharge Requirements -- are reviewed and
- 7 eventually redrafted in the next few months, any issues
- 8 with the levee containment system will be examined by
- 9 the Regional Water Quality Control Board.
- 10 Fifth are issues relative to seismic concerns.
- 11 Staff have again reviewed the seismic stability
- 12 analysis and find that the analysis is adequate for
- 13 those aspects of slope stability within the Board's
- 14 regulatory authority.
- 15 The LEA had previously indicated that in
- 16 addition to their review they had a third-party
- 17 engineering review -- engineering group review the
- 18 analysis, and staff note that it is expected that the
- 19 Regional Water Quality Control Board will review this
- 20 analysis as part of the WDR review.
- The LEA and Board staff have found the
- 22 facilities, both the landfill and the compost site, are
- 23 consistently in compliance with state minimum
- 24 standards.
- 25 Staff with the Jurisdiction and Compliance and

- 1 Audit section, JCA, have indicated that they
- 2 recommended that the Board find that the permit be
- 3 found in conformance with the county-wide siting
- 4 element and the nondisposal facility element.
- 5 JCA staff are available to provide additional
- 6 details as needed on that recommendation.
- 7 A lengthy CEQA process has concluded this year
- 8 with the certification of the FEIR, Final Environmental
- 9 Impact Report, by the LEA. The Lead Agency has
- 10 concluded that there are unavoidable significant
- 11 impacts to air quality and has developed and adopted a
- 12 Statement of Overriding Considerations regarding those
- 13 impacts as identified in the agenda and in the
- 14 resolution.
- 15 The Statement of Overriding Considerations is
- 16 included in the agenda item as Attachment 4.
- We're going to turn it over to LEA now, and
- 18 she's going to bring up some of the technical issues
- 19 that need to be discussed.
- 20 CHAIRPERSON BROWN: Thank you. Rebecca?
- 21 MS. NG: Good morning, Madam Chair. Board
- Members.
- 23 I'm Rebecca Ng. I'm with Marin County
- 24 Environmental Health, the designated Local Enforcement
- 25 Agency. I'm just going to give you a brief summary of

1 the local process on the Redwood Landfill solid waste

- 2 facilities permit project.
- 3 I will start by saying Marin County went
- 4 beyond the minimum requirements on noticing, comments,
- 5 and review periods as well as hearing requirements.
- 6 All meeting notices were published in at least two
- 7 local newspapers, posted on the Community Development
- 8 Agency and Environmental Health websites.
- 9 Over 200 notices were sent to people on the
- 10 mailing list which included property owners within 625
- 11 feet of the landfill, interested environmental groups,
- 12 individuals who requested to receive project updates,
- 13 commenters who wrote letters, local media, and agency
- 14 decision-makers.
- 15 So Marin County really tried to involve the
- 16 public in this process.
- 17 I will start by saying the environmental
- 18 review process went for nine years, from 1999 to 2008.
- 19 We had comment and review periods of 190 days -- 194
- 20 days total. 700 oral and written comments.
- 21 Redwood Landfill eventually changed their
- 22 project and adopted the mitigated alternative, the
- 23 environmentally superior alternative identified in the
- 24 EIR.
- 25 There was an additional 33-day review period

- 1 on the final Environmental Impact Report and the first
- 2 and second amendments. And there were four public
- 3 hearings.
- 4 The LEA as Lead Agency did certify the EIR in
- 5 June, and the application for revision to the permit
- 6 was submitted in August. In the fall, in September and
- 7 November, the LEA did host two informational meetings
- 8 on the revised permit.
- 9 And again, the notices were sent to 200
- 10 people, we posted it on our websites, we published it
- 11 in two local papers. Also, the draft proposed permit
- 12 and the mitigation monitoring and report program were
- 13 posted on the Environmental Health website for public
- 14 review a minimum of ten days prior to the second
- 15 informational meeting as well as before the Waste Board
- 16 Permitting and Compliance Committee meeting and is
- 17 still posted there.
- 18 November 17th, we did -- the LEA did send the
- 19 proposed permit to the Waste Board. Changes were made,
- 20 taking into consideration comments made by the public.
- Now, I will go into several public concerns
- 22 that have been raised. I believe they are included in
- 23 the letters that you have received, and just to follow
- 24 up on some of the comments made by Waste Board staff.
- The leachate management and leachate

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- 1 facilities leak and spill contingency plan: The leak
- 2 and spill contingency plan are one of the mitigation
- 3 measures, and it has been submitted.
- 4 The leachate management involves many, many
- 5 activities, and I'm not going to bore you with all of
- 6 them. However, I should note that leachate is within
- 7 the authority of the Regional Water Quality Control
- 8 Board, and all their activities will be approved and
- 9 conducted with Regional Board oversight.
- 10 But one issue was brought up, and that was
- 11 regarding an overflow that occurred during an El Nino
- 12 year in 1997 where leachate and the excessive rainwater
- 13 was more than the leachate pond could hold and was
- 14 pumped into the stormwater drain and eventually was
- 15 released into the creek.
- 16 However, the Water Board was notified, and
- 17 Redwood Landfill did sample daily for 30 days to -- so
- 18 they knew what was in the overflow. And most of it was
- 19 rainwater, so it was deemed not -- they did not receive
- 20 a violation from the Regional Water Quality Control
- 21 Board.
- 22 Second, the levee stability analysis.
- 23 Reinhard did mention something about that. And we --
- 24 the mitigated alternative design, the slope design, was
- 25 peer-reviewed by the -- during the CEQA process by the

- 1 geotechnical subconsultant who concluded that the
- 2 mitigated alternative complies with the seismic
- 3 stability requirements contained in the state and
- 4 federal regulations. So all seismic risks of the
- 5 project have been addressed.
- 6 Additionally, slope stability analysis was
- 7 conducted on levee upgrades by a third-party engineer,
- 8 and those have also been deemed satisfactory with the
- 9 exception of one section that needed to be regraded.
- 10 And regarding the sea level rise, there is a
- 11 mitigation which requires the submission of a long-term
- 12 flood protection plan. That has been submitted and
- 13 reviewed by the LEA.
- 14 And a third-party engineer has concluded that
- 15 the geotechnical evaluation of settlements and research
- of the predicted sea level rise are generally
- 17 appropriate for the site conditions.
- 18 Additionally, the mitigation measures require
- 19 that the plan be updated every five years in light
- 20 of the -- sea level rise is still a fairly new thing
- 21 for everybody, so with consultation with the US
- 22 Geological Survey and the San Francisco Bay
- 23 Conservation and Development Commission who track that,
- 24 the plan has to be updated every five years in light of
- 25 the sea level rise. Levels.

- 1 Okay. Also, questions regarding the
- 2 independent monitor have been brought forth. In the
- 3 EIR -- the EIR did not identify a significant impact
- 4 related to Redwood Landfill's existing self-monitoring
- 5 program. Subsequently, there is no legal basis under
- 6 CEQA to impose a third-party monitoring program as
- 7 mitigation.
- 8 However, the LEA as Lead Agency has the
- 9 authority to require a program of this nature.
- 10 Subsequently, the LEA did include a Condition 16S in
- 11 the solid waste facility permit which requires an
- 12 independent third-party monitor subject to the approval
- of the LEA, retained at Redwood Landfill's expense, to
- 14 monitor the facility's compliance with all conditions
- 15 of the permit and the MMRP.
- 16 And the audits and annual report will be
- 17 submitted to the LEA and made available to the public
- 18 as public records.
- 19 There -- the one -- there is one sentence in
- 20 the condition that has -- the public has taken issue
- 21 with. And it is:
- 22 After the facility has complied with
- 23 this condition for three years, the LEA
- 24 shall have the discretion within its
- 25 authority to protect public health,

1	safety, and the environment to
2	eliminate, extend, or otherwise modify
3	this requirement in consideration of the
4	utility of the information generated to
5	the LEA and to the community, the
б	expense to the facility of generating
7	the information, and such other concerns
8	as the LEA may deem relevant.
9	Okay. I believe members of the public seem to
10	ignore "extend" and "otherwise modify" this requirement
11	and hone in on the "eliminate" part.
12	That is not the intent of the LEA at this
13	time, to eliminate the program after three years.
14	However, we would like the flexibility to review the
15	condition and how it's going and make modifications as
16	necessary. So.
17	Other issues that have been brought up are
18	regarding greenhouse gas reduction. There is a
19	mitigation measure in the MMRP that requires the
20	development of a greenhouse gas reduction plan and
21	submission to the LEA prior to project approval.
22	And the plan has been submitted and reviewed

with the other plans for the completeness

23

24

25 submitted to the Bay Area Air Quality Management

determination, but also the plan is required to be

- 1 District who is the Lead Agency on those types of
- 2 issues, air quality, and also to the Marin County
- 3 Community Development Agency for compliance with the
- 4 county general plan.
- 5 We did -- the LEA did include a condition in
- 6 the permit, 16T, to provide some incentive for reaching
- 7 the goals on greenhouse gas reduction. And the
- 8 language allows the utilization of increased capacity
- 9 when they meet the 2015 reduction goal.
- 10 And we only -- there has been some question as
- 11 to why we did not include increases in increments, and
- 12 that is because of the difficulty associated with
- 13 identifying increments in an engineered fill plan. How
- 14 do you do that?
- 15 Plus, there's also been criticism as to why we
- 16 chose a 2015 goal and not an earlier goal. With 2009
- 17 around the corner, it takes a number of -- it takes a
- 18 long time to get a permit, for one, and then to get the
- 19 project constructed up and running. So we chose that
- 20 2015 goal as reasonable.
- 21 Also, with the increased capacity, the closure
- 22 date would go from 2016 to 2024, so we thought 2015
- 23 would be a good date because, if they do not meet this
- 24 goal, then they would have to implement closure.
- Okay. Two more items.

- 1 One is there is some question as to whether
- 2 there was a lateral expansion. The old permit
- 3 currently states 210 acres for the landfill footprint,
- 4 and the revised permit lists 222 and a half acres for
- 5 the landfill footprint.
- 6 And this was identified by the LEA in 1998 as
- 7 a change, and it was reviewed in the EIR and determined
- 8 that it was a minor technical change because waste had
- 9 been placed since 1958 and -- in the area -- and when
- 10 the leachate collection and monitoring system was, the
- 11 new one, was installed after 1995, waste was found
- 12 along the perimeter of the landfill footprint, and when
- 13 the resurvey and recalculation was done -- plus there
- 14 was another area where waste had been placed -- it came
- 15 up with 222 and a half acres.
- 16 And as I said earlier, the EIR did identify
- 17 and did not -- determined it did not warrant further
- 18 review.
- 19 And lastly, I just -- there is a construction
- 20 and demolition facility that has been identified and is
- 21 added to the permit -- well, is added -- it was
- 22 identified, and the 400 additional tons in the permit
- 23 will be for material resource and recovery operations.
- 24 That material will eventually go to the C&D
- 25 facility that is proposed, and there is a Condition 16U

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- 1 which requires that the -- all permits needed must be
- 2 applied for within two years of issuance of the solid
- 3 waste facilities permit, and every effort shall be made
- 4 to complete implementation within three years of permit
- 5 issuance. And that C&D operation will be regulated
- 6 under a separate permit.
- 7 This concludes my presentation. Could I
- 8 answer any questions?
- 9 CHAIRPERSON BROWN: Thank you, Rebecca. Any
- 10 questions for Rebecca? No, but we'll call you back if
- 11 we have any that come up. Thank you. Reinhard?
- MR. HOHLWEIN: Thank you, Becky. We
- 13 appreciate it.
- So Board staff find the environmental
- 15 document, the Lead Agency's findings, and the Statement
- of Overriding Considerations are adequate for the
- 17 Board's evaluation of the project for those project
- 18 activities which are under or within the Board's
- 19 jurisdiction and authority.
- 20 Staff have also found all the other
- 21 requirements in PRC 44009 have been met.
- 22 And therefore staff recommends Option 1, that
- 23 the Board adopt as its own the Statement of Overriding
- 24 Considerations which was previously adopted by the Lead
- 25 Agency, concur in the issuance of the revised proposed

- 1 permit as submitted by the LEA, and adopt Resolution
- 2 2008-194 revised.
- 3 That concludes staff's presentation. Should
- 4 Board members have any questions, we of course will be
- 5 happy to answer those. And obviously the LEA is here
- 6 and the operator is here to answer any other questions.
- 7 Thank you.
- 8 MR. RAUH: Madam Chair, if I could add just
- 9 one thing. Copies of the revised resolution are at the
- 10 back of the room.
- 11 And also, one item that did come up in
- 12 committee I thought was important to re-advise the full
- 13 Board of is that with respect to the independent
- 14 monitor, at Member Mule's suggestion the LEA has agreed
- 15 that decisions regarding the continuation of the
- 16 monitoring activities, independent monitoring
- 17 activities, would be shared with Board staff.
- 18 CHAIRPERSON BROWN: Great. Okay. Thank you.
- 19 We have several speakers before us. Our first
- 20 speaker actually has a video, and I'm assuming that is,
- 21 Keith, cued up and ready.
- 22 Our first speaker is Kiki La Porta from
- 23 Sustainable Marin.
- 24 MS. La PORTA: Thank you very much, and good
- 25 morning, Madam Chair and Members of the Board. It's an

- 1 honor to be here before you.
- 2 And I was quite pleased and heartened to see
- 3 the fair-handed deliberation you gave to the statements
- 4 earlier by the communications professional with regard
- 5 to the contract issue. Thank you.
- 6 The Green Coalition has prepared a short video
- 7 to show you to give you a context for our presentations
- 8 this morning. The Green Coalition is comprised of 25
- 9 environmental, social justice, and education
- 10 organizations in Marin County. Sustainable Marin is
- 11 one. Please. This video is called A Tale of Two
- 12 Dumps.
- 13 (Whereupon, a film was shown: A Tale of
- Two Dumps.)
- 15 MS. La PORTA: Thank you. We in Marin County
- 16 are lucky that our nationally recognized and lauded
- 17 county-wide plan specifies sustainability as its
- 18 overarching them.
- 19 I am pro bono president of Sustainable Marin,
- 20 a grassroots nonprofit dedicated to advocating and
- 21 helping to secure now and for the future the
- 22 interlocking elements of a healthy environment, a
- 23 vibrant economy, access to community benefits and
- 24 social equity for all, and the fourth E, education.
- Our organization is lucky to have a framework

- 1 for helping our legislators and the public and you to
- 2 see the sustainable side of the equation. This often
- 3 entails looking at things differently.
- 4 We need to make the great U-turn as a society.
- 5 We need to turn away from the things we have been doing
- 6 that did not work and adapt to what we now know but did
- 7 not know before.
- I have a few slides to show you. I believe
- 9 that you each have a packet which will show you these
- 10 images on paper. Thank you.
- This is an aerial view of the Redwood
- 12 Landfill, California's largest tidal marsh. This is
- 13 the 1914 US Geological Survey topography map. Please
- 14 note the blue veins are the subsurface watery sloughs
- on which the landfill has been built.
- 16 Please note that, Madam Chair, even if this
- 17 Board's purview does not include regulating water
- 18 mitigations, which are the responsibility of the
- 19 Regional Water Quality Control Board, nonetheless that
- 20 does not preclude nor excuse you and your Board from
- 21 understanding the consequences of expanding this
- 22 landfill in this precious wetlands without adequate
- 23 protections and conditions.
- Next slide, please.
- This slide superimposes Redwood's boring and

- 1 monitoring wells and points on the previous slide. It
- 2 shows that the borings for monitoring the quality of
- 3 the subsurface water do not even in most cases touch
- 4 the sloughs so that we're not getting water samples
- 5 from what potentially could be contaminated leachate.
- 6 Next slide, please.
- 7 This slide shows the National Wetlands
- 8 Inventory where you can clearly see that Redwood
- 9 Landfill is a designated wetlands.
- 10 Slide, please.
- 11 This is the United States Geological Survey
- 12 Earthquake Probability Map. Please note that the
- 13 earthquake probability in the next 50 years is in the
- 14 90 percent category for a 6.7 earthquake.
- 15 In some of the LEA's comments, we were looking
- 16 at the possibility of a 7.0 earthquake. That's kind of
- 17 close for comfort.
- 18 I'd like to also point out that on April 15,
- 19 2008, it was a double-black-letter day. This headline
- 20 appeared in the San Francisco Chronicle. It says:
- 21 Sure Bet -- Big Quake in Next 30 Years. We have more
- than 90 percent probability of a 6.7 earthquake in 30
- 23 years. This particular landfill is situated between
- 24 two earthquake faults.
- 25 Slide, please.

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- 1 This shows the FEMA flood map for this area.
- 2 And I'd like to point out that the area has received
- 3 four 100-year floods in the last 50 years. I'd also
- 4 like to point out that according to BCDC it is not
- 5 necessarily sea level rise that will be the greatest
- 6 incursion of water onto land but more storm surges
- 7 which occur as a result of intensity and duration of
- 8 storms.
- 9 And seven, this slide shows us the BCDC
- 10 one-meter rise probability of inundation. This was
- 11 based on one meter, 39 inches.
- 12 I'd like to point out that last month in
- 13 November BCDC issued a new probability report
- 14 suggesting that in the next 100 years, or 2100, we will
- 15 have a 55-inch sea level rise.
- 16 Thank you for the slides.
- 17 What does all of this mean for the Redwood
- 18 Landfill permit before you? Lots of fact, we know now,
- 19 just didn't pertain at the time this dump was situated.
- 20 Nobody thought about them.
- 21 For example, when the Redwood Landfill was
- 22 originally established, perhaps it wasn't a concern
- 23 that it was surrounded on three sides by water, between
- 24 two earthquake faults, unlined, on watery sloughs. But
- 25 now we know better.

- 1 The best science we can muster suggests we
- 2 will have 55 inches of sea level rise and concomitant
- 3 storm surge. In fact, communities across this state,
- 4 including my community, San Rafael, is preparing a
- 5 climate change action plan and our adaptation and sea
- 6 level rise committee is planning for sea level rise of
- 7 55 inches.
- 8 Knowing what we know now, this landfill never
- 9 would have been sited where it is. We in Marin would
- 10 never willingly have mixed our garbage and the black
- 11 bag poisons it produces in such a sensitive and
- 12 precarious location.
- 13 If we had known, we wouldn't have created and
- 14 kept the laws that allow methane-producing green waste
- 15 to be used as daily cover. We wouldn't sacrifice the
- 16 nutrients we take endlessly from the soil and
- 17 effectively sequester them away from any possible
- 18 public and beneficial use.
- 19 These are some of the permitted practices and
- 20 activities of the last century that we would never have
- 21 allowed if only we had known the damage they would
- 22 cause and the irreplaceable loss to a sustainable cycle
- 23 of life.
- Now we know better. It's time for us to make
- 25 the turn. In the face of what we know and what systems

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1 are crumbling around us, is it time to exercise

- 2 prudence and caution for the public good, for
- 3 sustainability in our communities.
- 4 Is it not time to reconsider state minimum
- 5 standards in terms of adaptation to new knowledge and
- 6 new conditions?
- 7 Science tells us it is only a matter of
- 8 time -- only a matter of when, not if -- a natural
- 9 disaster will occur which will compromise the Redwood
- 10 Landfill.
- 11 Currently, there are only last century's laws
- on the books that provide for a 30-year post-closure
- 13 financial assurances. We know this Board is looking to
- 14 extend this, but the fact is that there is no financial
- 15 assurance for cleanup after a natural disaster,
- 16 catastrophic failure, and post-closure.
- Does this Board expect Marin's taxpayers to
- 18 pick up the potential \$1 billion cleanup cost? Or do
- 19 we wait and hope for the federal government to declare
- 20 this a Superfund cleanup site?
- 21 California citizens deserve to know that Waste
- 22 Management will fund the cleanup if, 50 years after
- 23 closure, the disaster hits. We ask you to look at
- 24 things differently before allowing this permit to be
- 25 issued.

- 1 Thank you.
- 2 CHAIRPERSON BROWN: Thank you, Kiki for being
- 3 here. Our next speaker is Dr. Douglas Kerr.
- 4 DR. KERR: Good morning, Madam Chair and
- 5 Board. Thank you for the opportunity to speak with you
- 6 today.
- 7 I would like to address what the draft permit
- 8 promulgates as overriding considerations and then
- 9 briefly talk about three additional points, the first
- 10 of those being the lack of adherence to this Board's
- 11 guidelines and to state law when siting a composting
- 12 facility; second, reward for performance, to be
- 13 explained; and the applicant's shy and retiring nature,
- 14 also to be explained.
- 15 Turning to the overriding considerations, the
- 16 draft resolution asserts that, quote, the project will
- 17 provide needed recycling capacity. Sounds good,
- 18 doesn't it?
- 19 Until you look in vain for the resource
- 20 recovery plan that the applicant has submitted. If you
- 21 find one of those in any of these materials, I will do
- 22 all your Christmas shopping for you. This offer is not
- 23 as risk-tolerant as it sounds.
- 24 There is no resource recovery plan submitted
- 25 by the applicant. And as a consequence, it is

- 1 virtually impossible to determine whether the resource
- 2 recovery plan, which does not exist, would do a good
- 3 job or a bad job of providing needed recycling
- 4 capacity.
- 5 It's preposterous to call this circumstance a
- 6 public benefit and to assert that it overrides the
- 7 project's unavoidable environmental degradation.
- 8 The draft resolution also announces that a
- 9 public benefit and overriding concern is the project's
- 10 producing energy via a landfill gas-to-energy facility.
- 11 Peter Anderson, who is a nationally recognized expert
- 12 on landfill gas-to-energy and who in the past has
- 13 consulted to this Board, has testified on this specific
- 14 matter in regard to this particular application. His
- 15 testimony is in the record.
- 16 It turns out that operating a landfill
- 17 gas-to-energy facility at this site would actually
- 18 increase greenhouse gas emissions. I invite you to
- 19 examine Mr. Anderson's documentation of this point in
- 20 his testimony in the record.
- 21 Now if we do not have a landfill gas-to-energy
- 22 facility on this site, we are left with the applicant's
- 23 own plan which it calls a greenhouse gas reduction plan
- 24 and which it admits will fail to achieve the required
- 25 level of greenhouse gas reduction to 15 percent below

- 1 1990 levels.
- 2 So promising to operate a landfill
- 3 gas-to-energy facility on this site is not so much a
- 4 public benefit or overriding concern as it is one of
- 5 those don't-do-me-any-favors situations.
- 6 The draft resolution also celebrates that the
- 7 project, quote, enables Marin County to meet the
- 8 Board's 15-year disposal capacity requirement, end
- 9 quote.
- 10 What the draft does not celebrate is that the
- 11 project allows Marin County to meet this requirement
- 12 for only one year. To imply otherwise is to perform a
- 13 shell game for this Board.
- 14 The applicant predicts that without the
- 15 project the landfill would have to be closed in 2016,
- 16 and that if you approve the project the landfill would
- 17 be closed in 2024.
- 18 Incidentally, in the 1995 filing, the
- 19 applicant said it would not need to close the landfill
- 20 until 2039. Comparing that 2039 date to the company's
- 21 current projection that the landfill would have to be
- 22 closed in 2016 if you don't approve the project, we
- 23 learn that, for a company that's in the business, the
- 24 powers of their prediction are curiously unpredictable
- 25 by 23 years.

- 1 In any case, their current claim is that by
- 2 approving the project closure can be postponed past
- 3 2016 and delayed to 2024. If we subtract 15 from 2024,
- 4 what year are we in? Next year. 2009.
- 5 So the final 15 years of disposal capacity
- 6 would begin next year, and Marin County will at that
- 7 time have to initiate the process of identifying
- 8 another site.
- 9 Marin gets to postpone this inevitability only
- 10 one year if you approve this project. Surely this is
- 11 not a public benefit or overriding consideration
- 12 warranting the approval of a project that will lead to
- 13 such environmental and fiscal calamities.
- 14 The draft resolution also assures us that,
- 15 quote, the project includes a reduction in the amount
- of biosolids handled at the facility, end quote. Here
- 17 again, the Board may witness a prodigious display of
- 18 presto-chango: The project will permit the applicant
- 19 to accept the same amount of biosolids as it accepts
- 20 today.
- 21 There is no reason to anticipate a reduction
- 22 in biosolids in the future, as the draft resolution
- 23 implies. There was, however, a reduction in the amount
- 24 of biosolids that Redwood Landfill handled several
- 25 years ago as a result of market conditions. Perhaps

1 that's the reduction the draft resolution is talking

- 2 about.
- 3 The argument would then be that you should
- 4 approve the project because of biosolids reduction the
- 5 applicant implemented several years ago for its own
- 6 business purposes. That is not a public benefit that
- 7 overrides this project's environmental and fiscal
- 8 catastrophes.
- 9 The draft resolution also somewhat
- 10 fantastically concludes the project, quote, better
- 11 protects public health, end quote, and enhances, quote,
- 12 environmental protections, end quote.
- 13 Let's review.
- 14 This project is said to enhance environmental
- 15 protections by increasing the slope of the landfill
- 16 from 4-to-1 to 3-to-1; by building these dikes on Bay
- 17 mud; by building these dikes on levees which have
- 18 already experienced a failure; by building these dikes
- 19 in a floodplain where the facility itself is already
- 20 below sea level; and by building these dikes between
- 21 two earthquake faults which have a virtual certainty of
- 22 a 6.9 or larger earthquake in 30 years.
- 23 An independent geotechnical engineer's
- 24 testimony to the LEA in the record documents that the
- 25 fill sequencing plan fails to address seismic risk and

- documents that the fill sequencing plan fails to comply
 with state law concerning maximum probable
- 3 accelerations.
- 4 To say that anything in these considerations
- 5 increases environmental protections is like saying
- 6 smoking is healthy because it might help you lose
- 7 weight. There's no environmental protection here and
- 8 no public benefit constituting an overriding concern.
- 9 Before leaving the contrived public benefits
- 10 of the overriding concerns, it's worth noticing that
- 11 the draft resolution entirely ignores what the city of
- 12 Novato has determined to be its public benefit.
- With its 50,000-some citizens, Novato is the
- 14 city closest to the landfill and most impacted by its
- 15 operations. The City stated by resolution that, quote:
- The proposed expansion will increase
- 17 negative air quality impacts due to
- on-site operations and traffic accessing
- 19 the site. Air quality impacts are a
- 20 substantial concern to the City of
- 21 Novato because these can migrate offsite
- 22 and impact Novato residents and,
- 23 according to the final EIR, cannot be
- 24 mitigated to a level of insignificance.
- 25 The pollutants include toxic emissions

1	and odors which impact neighboring
2	residents. Since the proposed project
3	has at best limited benefits for Novato
4	or Marin County, the City does not
5	believe there is a basis for making
6	findings of overriding considerations.
7	Moving now from these overriding
8	confabulations, let's look at the draft resolution's
9	discussion of composting and its claim that, quote:
10	The proposed permit is consistent with
11	the siting element and the nondisposal
12	element of Marin County and is therefore
13	in conformance with Public Resources
14	Code 50001.
15	This is like saying that filing IRS forms
16	without including any necessary remittance constitutes
17	paying your taxes.
18	Redwood Landfill's composting operation was
19	mentioned in passing and then buried in a county
20	summary plan.
21	At no time has there been exercised in the
22	past adherence to the this Board's own guidelines or
23	state law concerning siting composting facility. At no
24	time has there been appropriate public notice. At no
25	time has there been process for public comment and

1 participation. No conceivable conformance with Public

- 2 Resources Code section 50001.
- 3 Let me briefly talk about reward for
- 4 performance. The requested capacity increase should be
- 5 expressly conditioned on the applicant meeting the
- 6 conditions -- the requirements, the milestones in the
- 7 MMRP and the mitigation measures required in the FEIR.
- 8 The permit should require full implementation
- 9 of these by 2012. Without this condition, there is no
- 10 enforceable incentive to assure that the applicant
- 11 completes what it today promises.
- 12 On page 5 of Mr. Gilkerson's December 15th
- 13 letter to the Board on behalf of the Green Coalition,
- 14 you will find language that frames the stipulation of
- 15 having the capacity increase conditioned on the
- 16 applicant doing what it's supposed to do. Please
- 17 include that language on the first page of the permit.
- 18 Lastly, let me speak briefly about the
- 19 applicant's shy and retiring nature.
- 20 The applicant has been ever so hesitant in the
- 21 past to make its self-monitoring reports available to
- 22 the public. The Green Coalition has had to force the
- 23 revelation of these reports through Marin County's
- 24 public records act on repeated occasions over the
- 25 years.

- 1 These reports are required under permit
- 2 section 15 and reflect monitoring done for the public's
- 3 protection. Please add to section 15 of the permit the
- 4 language suggested in Mr. Gilkerson's December 15
- 5 letter stipulating that all reports and results will be
- 6 sent to the LEA where they will be made available to
- 7 the public for inspection, including any
- 8 self-monitoring reports.
- 9 In closing, the principal thing these
- 10 considerations override is the public's hope for
- 11 protection from initiatives that will lead to
- 12 predictable environmental catastrophe.
- 13 We are relying on you to protect us from an --
- 14 such an initiative as is embodied in this permit and
- 15 the draft resolutions.
- 16 We ask that a final decision in this matter be
- 17 postponed until all members of this Board can
- 18 participate in rendering their informed and considered
- 19 judgment in this complex and environmentally crucial
- 20 matter.
- 21 There is something that you would gain from
- 22 knowing the outcome of the hearing, and that is the
- 23 outcome of the hearing. The hearing is provided not
- 24 only to provide relief for mishandling at that level,
- 25 but it is appealable to you and is presumably also a

- 1 screen, an independent look at how the matter was
- 2 handled at the local level; and that, by itself, is
- 3 information that would be germane. And the thoughts of
- 4 the judge would be useful to your deliberations.
- 5 Thank you.
- 6 CHAIRPERSON BROWN: Thank you, Dr. Kerr.
- 7 We do have several speakers, so I do want to
- 8 ask everybody to keep your comments direct.
- 9 We have generally asked members of the public
- 10 speaking to an item to keep their comments to five
- 11 minutes. We'd like to make sure everybody has an
- 12 opportunity to wants to speak to this item, so if you
- 13 could do that.
- 14 Some of the issues may be repeated, so if you
- 15 direct your comments to things that have not already
- 16 been stated or to the issues that are before this
- 17 Board, that may allow us a little bit more time.
- 18 The next speaker is Susan Brown from the Green
- 19 Coalition.
- MS. BROWN: Good morning, Madam Chair, and
- 21 good morning Members.
- 22 My name is Susan Brown. I'm an elected
- 23 director of the Ross Valley Sanitary District in Marin,
- 24 and I sit as a commissioner on the Central Marin
- 25 Sanitation Agency. These agencies encompass sewage

- 1 collection, treatment, and discharge into the Bay
- 2 waters.
- I appreciate very much the opportunity to
- 4 speak to you today, and I will keep my comments within
- 5 five minutes. And they will be directly in response to
- 6 staff information provided you.
- 7 I appreciate the opportunity to bring your
- 8 attention to two areas of concern emphasized at the
- 9 Marin Planning Commission but deficient in the Local
- 10 Enforcement Agency staff report to you. These include
- 11 the independent monitoring as well the use of green
- 12 waste as daily cover for garbage.
- In regard to the independent monitor, I would
- 14 like to bring to your attention that speaker after
- 15 speaker during the FEIR proceeding stressed the
- 16 importance of a robust independent monitor program.
- 17 Given the outpouring of public concern and the
- 18 inappropriate location of the grandfathered landfill,
- 19 although the draft solid waste facilities permit
- 20 requires the landfill to hire an independent third
- 21 party to monitor the facility's compliance, no
- 22 standards requirements are set forth.
- 23 Specifically, there are no criteria for
- 24 selecting the landfill monitor and no process for the
- 25 county review and approval of the monitor after

- 1 opportunity for public input. There are no performance
- 2 standards or industry requirements for performing the
- 3 monitoring function. There is no opportunity for
- 4 public input or review of the monitor's findings and
- 5 annual report. The monitoring can be discontinued
- 6 after three years.
- 7 Condition S of the draft permit should be
- 8 amended to address these shortfalls by helping to
- 9 assure that:
- 10 The monitor is truly independent and has
- 11 sufficient experience and expertise;
- 12 The monitor is selected through the Request
- 13 For Proposal process, highlighting key requirements and
- 14 protocols that the monitor will follow;
- 15 The Local Enforcement Agency reviews and
- 16 approves the monitor;
- 17 And the Request For Proposal responses,
- 18 contract, and annual reports with recommendations and
- 19 findings are available for the public's review and
- 20 input.
- 21 Accordingly, we urge you to substitute the
- 22 following language for the Condition S. The language
- 23 that has been provided to you in the letter from the
- 24 Green Coalition is there. And in the interest of
- 25 saving time, I won't read those conditions. But you do

- 1 have them before you, and I hope you consider and
- 2 insert them.
- 3 The absence of a more robust independent
- 4 monitoring program will render it a sham and open to
- 5 public criticism instead of addressing the public's
- 6 need for assurance and the Local Enforcement Agency's
- 7 need for assistance.
- 8 For these same reasons, the independent
- 9 monitoring program should not be subject to termination
- 10 after three years as the current draft permit would
- 11 provide, despite the LEA suggesting that they could
- 12 potentially extend or modify an independent monitor.
- 13 The need for the independent monitor will only increase
- 14 as the landfill moves closer to reaching full capacity.
- In regard to the use of green and yard waste
- 16 as daily cover, the draft permit would allow Redwood to
- 17 use up to 350 tons a day of green waste and yard waste
- 18 as daily cover or as erosion control.
- 19 It will still remain in the ground. It will
- 20 not be turned into gas-to-energy that we know of yet.
- 21 It will still lead to methane gas emissions, the
- 22 largest methane gas producer in the county.
- To comply with mitigation measures 3.2.5F
- 24 greenhouse gas reduction plan requirement to eliminate
- 25 the additional methane gas generation caused by the

- 1 using -- by using organic materials as daily cover with
- 2 resulting negative impact on global warming, as well
- 3 documented by Peter Anderson, and to uphold the
- 4 purported purpose of the project to advance resource
- 5 recovery such as compost to replenish the earth, the
- 6 final permit should require phasing out over the next
- 7 two years the use of green waste and yard waste as
- 8 daily cover materials and erosion materials.
- 9 In the very least, the ability to use green
- 10 waste and yard waste as daily cover should be expressly
- 11 conditioned on the results of future studies of
- 12 alternate daily cover practices' impact on methane gas
- 13 generation and global warming.
- 14 In conclusion, for the reasons stated above
- 15 and to protect the public's health and welfare and
- 16 environment, we respectfully urge you to exercise your
- 17 formal and advisory authority to remand the permit back
- 18 to the LEA and to not concur in the issuance of a solid
- 19 waste facility permit for the Redwood Landfill.
- I thank you for your time and attention.
- 21 CHAIRPERSON BROWN: Thank you, Susan.
- 22 Mark, I'm -- Mr. De Bie, sorry. I'm assuming
- 23 that you are keeping a list of some of the issues to
- 24 address at the conclusion of the speakers, you or
- 25 Reinhard, because I know that we did address the

- 1 three-year review already in committee last week and
- 2 the fact that that is not the case, that it doesn't
- 3 conclude after three years, it continues on. It just
- 4 comes up for review and change. So are you keeping a
- 5 list and we can --
- 6 DIVISION CHIEF DeBIE: Yes. Mark de Bie with
- 7 the permitting group. I'm keeping a list.
- 8 CHAIRPERSON BROWN: Ted's keeping a list.
- 9 DIVISION CHIEF DeBIE: Ted's jotting down
- 10 notes. Reinhard's got notes. We're all keeping track.
- 11 CHAIRPERSON BROWN: Rebecca's keeping a list,
- 12 I'm assuming, behind you. Okay.
- 13 DIVISION CHIEF DeBIE: And I agree that a
- 14 number of these issues the Committee did hear already.
- 15 And we attempted to respond to those in the
- 16 staff presentation, but we're prepared to add
- 17 additional information as needed.
- 18 CHAIRPERSON BROWN: Okay. Our next speaker
- 19 then is Brent Newell.
- 20 MR. NEWELL: Good morning. Madam Chair,
- 21 Members of the Board.
- 22 My name is Brent Newell. I'm an attorney, and
- 23 I represent No Wetlands Landfill Expansion which is one
- of the member organizations for the Green Coalition.
- Just for the record, Madam Chair, I want to

- 1 clarify that I'm not appearing as the legal director
- 2 for the Center on Race, Poverty, Environment which is
- 3 an environmental justice law firm. I'm appearing as a
- 4 private attorney located in Petaluma, California which
- 5 is very near the dump.
- 6 This dump began as a 1950s era dump when there
- 7 were no liner requirements. There is no liner
- 8 underneath this dump. It's located actually in a tidal
- 9 estuary which is commonly called the Petaluma River.
- 10 The bottom of the dump is below sea level, and
- 11 it is on what's called bay mud which has a hydrologic
- 12 conductivity of one times ten to the negative
- 13 centimeters per second. And I'm going to get back to
- 14 that in a second.
- 15 It's also located on a highly permeable stream
- 16 channels that used to be part of that environmental
- 17 state before the dump was located there.
- 18 I would ask you what does a hydrologic
- 19 conductivity of one times ten to the negative
- 20 centimeters per second actually mean? Well, the public
- 21 doesn't know how to perform that engineering
- 22 calculation, and I would expect that the Board doesn't
- 23 know that either.
- In a similar case, a CEQA case, in which I was
- 25 an attorney and Ms. Meserve was also an attorney -- Ms.

- 1 Meserve represents Waste Management. That was an
- 2 issue: How much discharge does that hydrologic
- 3 conductivity engineering equation mean in real terms?
- 4 In real terms, for a dairy with a lagoon of
- 5 manure waste, that meant eleven million gallons a year.
- 6 We're talking about that's the same conductivity of the
- 7 bottom of this landfill.
- 8 Now that may come out in subsequent CEQA
- 9 litigation as it did the Borba case, or it may not; but
- 10 I want to raise that to you today because this 1950s
- 11 dump would never have been built where it is without a
- 12 liner under our statutes and regulations today. It
- 13 should not be located and should not be expanded at
- 14 this location.
- I authored a letter that was submitted to the
- 16 Policy Committee on the 9th. It's dated December 9,
- 17 2008, and I trust members of the Board have received
- 18 it. I brought a couple of extra copies if you haven't
- 19 had an opportunity to review it.
- 20 Before I launch into the substance of that
- 21 letter, I want to briefly respond to what county
- 22 counsel said today, this morning -- not county counsel,
- 23 Board counsel; excuse me -- what he said this morning
- 24 about the Board's jurisdiction and what he also said on
- 25 the 9th, which was the same thing but in response to my

- 1 letter that was submitted to that committee.
- 2 He basically said this Board doesn't have
- 3 jurisdiction on CEQA grounds to object to air and water
- 4 quality impacts. I disagree with that as a legal
- 5 matter, and I think that's going to come out in any
- 6 subsequent briefing over this Board's decision. I
- 7 don't want to get into that at the moment.
- 8 But it begs the question: Why is staff asking
- 9 this Board to adopt a Statement of Overriding
- 10 Considerations which deals with air quality impacts and
- 11 global warming impacts?
- Do not adopt the Statement of Overriding
- 13 Considerations that has been recommended by staff. As
- 14 part of your concurrence, they've recommended that you
- 15 adopt a Statement of Overriding Considerations.
- 16 For those of you who are not familiar with
- 17 this term of art in CEQA, basically the Legislature, in
- 18 adopting CEQA, told agencies that they are not to
- 19 approve projects -- here in this situation, "concur" --
- 20 absent the adoption of a Statement of Overriding
- 21 Considerations when their decision will have a
- 22 significant and unavoidable impact on the environment.
- 23 It's not allowed absent this Statement of
- 24 Overriding Considerations. In other words, you can't
- 25 concur, you can't approve, unless you adopt the

- 1 Statement of Overriding Considerations.
- 2 You're being asked in that statement to decide
- 3 that various policy reasons justify -- are more
- 4 important than -- the significant air quality impacts
- 5 and impacts of the dump on global warming, impacts of
- 6 the dump -- impacts of global warming on the dump.
- 7 For example, sea level rise is an impact of
- 8 global warming on the dump. The dump contributes to
- 9 global warming, global warming impacts the dump as
- 10 well.
- So you're being asked to justify your
- 12 concurrence with the Statement of Overriding
- 13 Considerations.
- 14 Now I want to explain why your Statement of
- 15 Overriding Considerations violates CEQA. The impacts
- 16 to air quality and from global warming have not been
- 17 analyzed in the Environmental Impact Report, either
- 18 from the project level or from the cumulative impact
- 19 level, nor has the impact from global warming on the
- 20 dump been adequately analyzed.
- 21 A decision in the Statement of Overriding
- 22 Considerations that other policy goals are more
- 23 important is infected by the inadequate EIR.
- 24 What I mean is: Because the EIR doesn't
- 25 disclose to you or the public what the air quality

- 1 impacts are or what the global warming impacts are, you
- 2 can't as a Board base your Statement of Overriding
- 3 Considerations on substantial evidence.
- 4 Because there is no disclosure of those
- 5 impacts, you can't way these competing interests.
- Now, let me go back to what the Board counsel
- 7 was saying. If you don't have jurisdiction to deal
- 8 with air and water quality impacts, don't adopt the
- 9 Statement of Overriding Considerations. If you believe
- 10 him, don't adopt it. If you believe me, don't adopt
- 11 it. Either way, don't adopt the Statement of
- 12 Overriding Considerations.
- Does anyone have any questions?
- 14 CHAIRPERSON BROWN: I don't think so. Thank
- 15 you.
- MR. NEWELL: Thank you.
- 17 CHAIRPERSON BROWN: Our next speaker is David
- 18 Yearsley.
- 19 And just to let the audience know, we have
- 20 about eight more speakers to get through before we can
- 21 take any answers or questions, so again we may end up
- 22 taking a break. So we will have two more speakers and
- 23 then take a brief break for the court reporter. And
- then we will continue.
- MR. YEARSLEY: Thank you, Madam Chair, Members

Please note: These transcripts are not individually reviewed and approved for accuracy.

- 1 of the Board. I don't know whether say good morning or
- 2 good afternoon, but --
- 3 CHAIRPERSON BROWN: You're pushing afternoon.
- 4 So good afternoon, Mr. Yearsley.
- 5 MR. YEARSLEY: It's a very interesting
- 6 morning. I appreciate your time today, and I will keep
- 7 my comments under five minutes and germane to the
- 8 topic.
- 9 I'm David Yearsley, Executive Director of
- 10 Friends of the Petaluma River. I also sit on Sonoma
- 11 County's AB 939 task force as the District 2
- 12 representative and have been an avid outdoorsman and
- 13 regularly visited the Petaluma Marsh over a period of
- 14 35 years. I know it intimately, both as a
- 15 recreationalist and as an environmentalist.
- 16 It was in 1998 that situation -- the threats
- 17 to the Petaluma Marsh concerned me enough to involve
- 18 myself as a Petaluma Riverkeeper and in 19 -- in 2005,
- 19 formed the Friends of the Petaluma River organization.
- 20 I'd like to read portions of the letter I
- 21 submitted to you yesterday into the record. I'll skip
- 22 some of the portions that have been covered by my
- 23 colleagues. This letter, December 15, 2008:
- 24 Chairman Brown and Members of the
- 25 California Integrated Waste Management

1	Board, Friends of the Petaluma River
2	submits comments for consideration in
3	your decision of the application of the
4	Waste Management Incorporated's revised
5	solid waste facility permit for the
6	Redwood Landfill. Expanding the
7	landfill that is built on tidal wetlands
8	adjacent to the state's largest
9	remaining contiguous ancient tidal marsh
10	is not a good decision. In my opinion,
11	it's a travesty. As duly appointed
12	officials charged with safeguarding the
13	environment and public health and
14	welfare, I urge you each personally to
15	consider these issues and not concur
16	with the issuance of the state from the
17	solid waste facility permit for Redwood
18	Landfill.
19	The following are a few conditions that are
20	major concern to me. And in the letter, the first item
21	was the bay mud liner which has been covered by other
22	members of the Green Coalition, which I participate in.
23	The levee concerns are an issue that I don't
24	think have been adequately presented. As a regular
25	visitor to the Petaluma Marsh, I've observed the levees

- 1 around the Redwood Landfill over a period of 30 years
- 2 and watched them slowly subside and deteriorate.
- 3 The only portions of the levee that have
- 4 actually been worked on were around the toe of the
- 5 landfill that contains the composting facility. And
- 6 then in the winter of 2006 that repaired levee slipped
- 7 and caused the Waste Management to run out there with
- 8 heavy equipment and repair that in emergency fashion
- 9 over the Christmas holidays, 2006-2007.
- 10 Pictures of that repair are circulated in
- 11 portions of a flyer I read around, but many portions of
- 12 the perimeter levee have not been reconstructed as
- 13 required in the 1994 permit.
- 14 The current FSEIR erroneously states that
- 15 there's a perimeter levee of six and a half to nine
- 16 feet above mean high sea level that separates the site
- 17 from surrounding waterways.
- 18 And I submit to you in my letter pictures that
- 19 were taken as recently as last Friday. All the
- 20 pictures is from 2008 of high tide approaching the
- 21 Redwood Landfill levee that show it less than three
- 22 feet above this high tide and separated from the slope
- 23 of the landfill by the ten-foot width of a perimeter
- 24 road.
- To build a nine-foot levee on top of that

- 1 perimeter road or encroach in the marsh is the only way
- 2 that a levee could be installed there. The levee
- 3 doesn't exist at this point, and if there were a storm
- 4 surge -- last Friday, during our spring tides -- the
- 5 foot of that landfill would have been under water.
- 6 So there's several areas where the perimeter
- 7 road is all that separates the bottom edge of the
- 8 landfill from the bulrushes and pickleweeds of the
- 9 sloughs.
- 10 The final issue has not been addressed by
- 11 anyone. It's one that I find the most disturbing. And
- 12 that's the impact on wildlife, the resident wildlife in
- 13 the Petaluma Marsh, the wildlife disturbance factor.
- 14 The impacts of bird abatement practices and
- 15 the nighttime operations of the landfill on wildlife in
- 16 the adjacent Petaluma Marsh were not adequately
- 17 addressed by the EIR document or any of the permit
- 18 data.
- 19 The Petaluma Marsh is California's largest
- 20 remaining intact tidal wetland and used by many
- 21 agencies as a benchmark for what a pristine tidal marsh
- 22 should be. It's directly adjacent to the Redwood
- 23 Landfill on its entire eastern border and only
- 24 separated by the width of San Antonio Creek.
- 25 The EIR did address the concerns of the human

- 1 communities outside of its boundaries, but it didn't
- 2 consider the impacts on neighboring wildlife
- 3 communities.
- 4 Many migratory water fowl as well as resident
- 5 wildlife, including several endangered species and
- 6 threatened species, have traditionally used the marsh
- 7 that is adjacent to what is now the landfill. In fact,
- 8 the clapper rail have been found near Miramonte and Mud
- 9 Hen Sloughs which are in the vicinity of the oxbow
- 10 directly adjacent to the dump.
- 11 The construction of the composting facilities
- 12 there makes an increase in the noise and air pollution
- 13 and adversely affect the nesting habitat there.
- 14 In response to a letter in the FSEIR, there
- 15 was a statement that many resources -- that there was a
- 16 scarcity of data in the disturbance factor on wildlife.
- 17 The fact is there are many resources that are available
- 18 that may not have been looked at.
- 19 Documents such as Ducks Unlimited's habitats
- 20 pamphlet number 17 quotes in part:
- 21 Disturbance is probably the most
- 22 important and overlooked factor that can
- cause a reduction in water fowl use in
- otherwise optimal habitat types.
- 25 Likewise, the Dark Skies Society has a website

- 1 that documents the deleterious effect of bright lights
- 2 on night life and wildlife.
- 3 As a user of the Petaluma Marsh regularly at
- 4 night as well as day as a duck hunter, I find their
- 5 lights are on 24 -- all night long. Their carbon arc
- 6 lights are visible as far away across the marsh in
- 7 Lakeville.
- 8 They're required to use bird abatement
- 9 practices to drive away seagulls because of the landing
- 10 field at Gnoss Field. Those cannons and whistles can
- 11 be heard all the way across the marsh, and the combined
- 12 effects on wildlife have never been adequately resolved
- 13 or mitigated.
- 14 In conclusion to the above points and other
- 15 deficiencies addressed in the environmental concerns, I
- 16 think it's a travesty to locate -- to build on a
- 17 landfill that's located in such a sensitive wildlife
- 18 area. I ask you not to exacerbate this situation by
- 19 concurring on -- approving this permit today.
- Thank you for your time.
- 21 CHAIRPERSON BROWN: Thank you, Mr. Yearsley.
- We will have one more speaker before we take a
- 23 break, and that is Mr. David Haskell from Marin County
- 24 Solid Waste Task Force.
- 25 MR. HASKELL: Thank you very much. And I'd

- 1 like to welcome Senator Kuehl and Assemblyman Laird to
- 2 the world -- the 21st-century world of zero waste,
- 3 where zero waste holds a great promise.
- 4 It's a world where we don't celebrate the
- 5 recovery and diversion of a single used plastic water
- 6 bottle as a recycling entity. There are things on the
- 7 21st-century zero waste world that are important.
- 8 And I think key to this application is the
- 9 appreciation by yourself first, Chairman, in last
- 10 week's meeting about the accolades that you give to
- 11 this proposal as a forward-thinking zero waste
- 12 initiative.
- Now I'm a fifth-generation Californian, but I
- 14 have spent 30 years of my life in New Zealand where I
- 15 worked with Mr. Stephen Tindall to establish the New
- 16 Zealand Zero Waste Trust which then moved forward,
- 17 working through communities -- and I'd like to
- 18 reinforce the fact working through communities.
- 19 Waste is first and foremost a social problem.
- 20 Not a technical problem.
- 21 And we in New Zealand became the first country
- 22 in the world with a zero waste national policy. I
- 23 worked with many local authorities in that regard, and
- 24 when I returned to my native California five years ago,
- 25 I've been involved with the Citizens Advisory Committee

- on Zero Waste to Marin County, and I was very humbled
- 2 to be appointed to the local task force this last year.
- Now, also at the last meeting, Madam Chair,
- 4 you complimented Marin County on their extravagantly
- 5 wonderful diversion rate.
- 6 And I think when you start looking at the key
- 7 element in this proposal, when it comes to what is it
- 8 really promoting in terms of zero waste and
- 9 particularly with regards to the nondisposal facility
- 10 element that's involved, because you have to ask
- 11 yourself: In a community that is primed for zero
- 12 waste, as we did in New Zealand time and time, again
- 13 you need a resource recovery part. It's not in Marin.
- 14 You need a C&D plant. That's not in Marin.
- 15 And the idea that we have got to wait three
- 16 years to get one when there are C&D green ordinances on
- 17 the books today that cannot be enacted because we don't
- 18 have one.
- 19 So your actions here today by approving this
- 20 would only exacerbate that problem for us who are
- 21 working hard to reduce our greenhouse gases, and we're
- 22 very proud of our green building.
- When you look at composting facilities that
- 24 return the nutrients back to the earth from which they
- 25 came to add to soil fertility, which we know, with peak

- 1 food, peak oil, peak water, that's one of our prime
- 2 community resources. Do we have an effective
- 3 composting system that returns those nutrients back to
- 4 the earth from which it came in Marin County? The
- 5 answer is no.
- 6 We mix all of our green waste that's collected
- 7 from the curbside, and it goes into the landfill as
- 8 ADC.
- 9 And I think -- I know that I'm short on time,
- 10 and I want to speak directly to the issue; and also, I
- 11 believe that your Elliot Block has gravely misled this
- 12 organization. I'm not sure where your source of
- 13 information is.
- 14 But as I sat here and listened to him say that
- 15 the local task force has discussed the Redwood's
- 16 composting proposal in October of this year I was
- 17 gobsmacked. Disbelief.
- I turned to my fellow LTF member in the
- 19 hallway who happened to work for your organization,
- 20 said Matthew, did we discuss that in October? No.
- 21 I called Jon Elam, who is the general manager
- 22 of the service district who sits with me on that task
- 23 force. Did we discuss that? No. We would remember
- 24 that.
- 25 I called Marin County, the administrator, and

- 1 I said look at your minutes from October and what did
- 2 we discuss? And we discussed banning all organics from
- 3 the landfill. And we discussed the food policy
- 4 program. So that -- you are being misled.
- 5 And I think you are being misled, not
- 6 intentionally perhaps, but in a very key element.
- 7 Because when you start looking at the
- 8 nondisposal facility element of this permit, as was
- 9 cited by earlier speakers, it is the Emperor's New
- 10 Clothes. Here I am. Don't I look beautifully dressed?
- 11 There's nothing there.
- 12 The composting facility that Redwood was --
- 13 the plan was initiated in August the 11th. It was
- 14 received by the LEA in early September, and as a local
- 15 task force member I can tell you unequivocally that we
- 16 have never seen it. I only received a copy of that
- 17 through a colleague in the Green Coalition.
- 18 And I think what we have to look at here, and
- 19 I think that what's critical for all of you is that in
- 20 New Zealand we understood that the only way that we can
- 21 go to zero waste is for the community to control its
- 22 material streams.
- 23 In California, you have industry that controls
- 24 your streams. In Marin County, you have industry with
- 25 exclusive franchises that forbids Boy Scouts from

- 1 collecting newspapers. It forbids grocery stores from
- 2 putting redemption centers.
- 3 There is a whole process here that we need to
- 4 embrace zero waste as a community. We have to take
- 5 these facilities: C&D, composting, resource recovery
- 6 parks, take back systems.
- 7 Is there a definitive list in Marin County of
- 8 all the retail organizations that take back materials?
- 9 No. In AB 939, there's a requirement for 6.1 and 6.2
- 10 programs.
- 11 Is there any money spent in the hierarchy of
- 12 waste on waste reduction? The answer is no.
- We have a long ways to go in Marin County.
- 14 And if you today allow Waste Management to have
- 15 sovereignty over 50,000 tons of organics so they can
- 16 use it as ADC -- and the irony here is if you go to
- 17 your own website -- your own website -- you look at
- 18 what -- how much organic material comes from Marin
- 19 County.
- 20 Well, you have that subtitle: Business
- 21 Organics Other. Residential Organics Other. Over and
- 22 above the green waste that's collected on curbside.
- 23 And there is approximately 150,000 tons of
- 24 organic material in that landfill. And I don't even
- 25 like to use the word landfill because it's neither land

- 1 nor fill. It is a dump. It is a waste treatment
- 2 facility.
- 3 So what happens to the other hundred thousand
- 4 tons? What happens to the aspirations of the clean --
- 5 marine clean energy which is now in place to capture
- 6 the organics so that we can generate seven megawatts of
- 7 our own power? Which is in the first order.
- 8 Local task force has not discussed these
- 9 issues. It's a requirement of your permitting process.
- 10 If you choose to give this permit today, then you're
- 11 abrogating your own rules. And I recommend to you
- 12 strongly that you send this back.
- 13 Let's get this nondisposal facilities element
- 14 thing right. Let us in Marin County make the decision
- 15 that if we have a good C&D company ready to go
- 16 tomorrow, we can allow that to happen. If we have a
- 17 good composting company who wants to create energy, we
- 18 can let that happen.
- 19 But if you delegate these resources to the
- 20 sole proprietary of Waste Management, you're burying
- 21 them for 20 years.
- Thank you very much.
- 23 CHAIRPERSON BROWN: Thank you, Mr. Haskell.
- 24 We still have seven speakers, so what I'd like
- 25 to propose is that we take a 15-minute break, come back

and hear the rest of this item, and then conclude with the rest of the Board meeting. Fifteen minutes enough for lunch? Given the time. I want to make sure that we are -- and then we'll give staff an opportunity and the LEA to respond to some of the things that have come up. (Discussion off the record) CHAIRPERSON BROWN: Why don't we break until 12:45. Come back at 12:45, and we'll hear the rest of the testimony. (Lunch recess)

1	AFTERNOON SESSION
2	000
3	CHAIRPERSON BROWN: We're a little off our
4	schedule, but I'd like to try and keep with where we
5	were. We still have seven speakers on this item, and
6	we still have Board business and Closed Session today.
7	So I'm going to ask the speakers again: If
8	your items were addressed in the committee, if you
9	could reference them and reiterate them but not we
10	don't need to hear the same testimony over again. It's
11	already on the record; it's part of our Board's
12	deliberation.
13	So I'm going to ask Donnell to call the roll.
14	EXECUTIVE ASSISTANT DUCLO: Cool. Kuehl.
15	BOARD MEMBER KUEHL: Here. Cool is fine.
16	(Laughter)
17	BOARD MEMBER PETERSEN: That is fine.
18	EXECUTIVE ASSISTANT DUCLO: Laird?
19	CHAIRPERSON BROWN: Mr. Laird? Just say here.
20	BOARD MEMBER LAIRD: Here.
21	EXECUTIVE ASSISTANT DUCLO: Mule?
22	BOARD MEMBER MULE: Here.
23	EXECUTIVE ASSISTANT DUCLO: Petersen.
24	BOARD MEMBER PETERSEN: Here.
25	EXECUTIVE ASSISTANT DUCLO: Chair Brown.

- 1 CHAIRPERSON BROWN: Here. Okay. Thank you,
- 2 Donnell, for being here. Okay.
- We will move to our next scheduled speaker,
- 4 and that is Bruce Baum.
- 5 MR. BAUM: Thank you, Madam Chair, and I can
- 6 actually say good afternoon to everyone. I'm Bruce
- 7 Baum. I'm representing Marin County's Green Coalition
- 8 for Responsible Waste and Resource Management.
- 9 And due to this meeting being held in
- 10 Sacramento, unfortunately many of our people that would
- 11 like to have spoken today will not have an opportunity
- 12 to speak. So I ask that you allow me perhaps an extra
- 13 minute or two.
- On December 9th at the permitting compliance
- 15 subcommittee meeting, we filed with you a letter we
- 16 sent to the LEA on November 5th.
- 17 This was the latest of numerous comment
- 18 letters we have filed over the years with Marin County
- 19 including reports we commissioned prepared by expert
- 20 hydrologists, geotechnical engineers and landfill
- 21 consultants; and like many before it, the analysis and
- 22 concerns in the November 5th, 2008 letter was largely
- 23 ignored by the LEA.
- 24 Today, I want to address the staff report of
- 25 today. Specifically, compliance with state minimum

- 1 standards, financial -- excuse me -- fiscal impact,
- 2 long-term impacts, financial assurance, and the
- 3 Statement of Overriding Considerations.
- I can tell I'm getting old. I've got to lift
- 5 this up to read it.
- 6 Compliance with state minimum standards.
- 7 Accepting minimum standards as the threshold that is
- 8 applied to an inland dry landfill is unacceptable for
- 9 Redwood Landfill's watery dump.
- 10 You are being asked to allow the landfill
- 11 operator to expand in this sensitive location because
- 12 it meets, quote, state minimum standards, close quote.
- 13 Citizens of Marin find this unacceptable and are
- 14 outraged by this representation.
- 15 Long-term impacts in the staff report. How
- 16 can the staff report they are not aware of any
- 17 long-term impacts? We have submitted hundreds of pages
- 18 of expert testimony that counters this statement.
- 19 You are being asked to allow this seismically
- 20 unsafe garbage pile, with known defective old dirt
- 21 levees surrounding three sides that have not been
- 22 raised to the nine-foot requirement, that is unlined
- 23 and in contact with groundwater in a floodplain, to be
- 24 represented as not having a long-term impact?
- 25 Can any member of this Board honestly say that

- 1 there will be no long-term impacts on the environment
- 2 with this project?
- 3 Financial assurance. As Kiki La Porta stated,
- 4 there is no financial assurance for cleanup after a
- 5 natural disaster. California citizens deserve to know
- 6 that Waste Management will fund the cleanup, perhaps 50
- 7 or 100 years, when the disaster hits long after the
- 8 closure.
- 9 At the CEQA hearing, Marin's planning
- 10 commission was so concerned that they requested
- 11 mitigations for the leachate pumps to run for at least
- 12 100 years past closure.
- 13 With the rest of my oral comments, I'll
- 14 address staff's recommendation that you accept Marin
- 15 County's Statement of Overriding Considerations which
- 16 begins at page 55 of the CEQA hearing findings.
- 17 Brent Newell, our CEQA expert, has addressed
- 18 the findings that cannot be reduced to less than
- 19 significant impacts. I will address other concerns.
- 20 David Haskell has spoken about the resource
- 21 recovery. Zero waste programs and goals can and should
- 22 be reflected in Marin's waste management blueprint. We
- 23 have none. Only two -- only the county and two
- 24 municipalities out of 11 have passed zero waste
- 25 resolutions.

- 1 Not one franchise agreement has been modified
- 2 to reflect incentives for the waste generators or the
- 3 haulers to move to zero waste, as other communities in
- 4 the Bay Area have.
- 5 Contrary to what you may believe, the majority
- 6 of Marin's high diversion rate is concrete and green
- 7 waste that's picked up at the curbside and used as ADC.
- 8 I'm going to address B, fiscal and economic
- 9 considerations. Dr. Kerr addressed the landfill claims
- 10 that the expansion, if approved, will extend the life
- 11 of the landfill until 2024. Even if true, Marin County
- 12 must begin finding an alternative in just 13 months, as
- 13 you heard. Then, once again, we'll have less than 15
- 14 years' capacity.
- 15 Over the past few years, Redwood Landfill has
- 16 taken approximately 50 percent of the waste from Sonoma
- 17 County. Now Sonoma County has plans to reopen its
- 18 central landfill, so the opening of Sonoma central
- 19 landfill -- and if Marin county becomes serious about
- 20 zero waste, the official policy of the Waste Board and
- 21 the state, we will have a better alternative there than
- 22 dumping about six million more cubic yards on tidal
- 23 wetlands.
- 24 Fiscal and economic considerations do not
- 25 consider, as Kiki mentioned, the estimated one billion

- 1 cleanup after the inevitable natural disaster of
- 2 earthquake, flooding, or leachate contamination of
- 3 Petaluma Marsh and San Pablo Bay.
- 4 Spreading the costs over additional loads and
- 5 years, another overriding consideration, is
- 6 meaningless. Where is the cost-benefit analysis?
- 7 Would an additional fifty cents to a dollar per month
- 8 impact Marin County taxpayers -- ratepayers? The
- 9 answer is no.
- 10 As Dr. Kerr addressed, the expansion proposal
- 11 includes only diverting construction and demolition
- 12 materials. It does not include any definitive plan for
- 13 a resource recovery park such as those now operating in
- 14 other communities.
- 15 C, the legal and regulatory considerations.
- 16 Linkage of expansion of Redwood Landfill capacity with
- 17 administrative fees and county official overseeing the
- 18 permit is specious.
- 19 D, social consideration. As cited in the
- 20 findings, landfill expansion approval is not necessary
- 21 for the applicant to continue to educate the public; it
- 22 is their ongoing responsibility.
- 23 Good corporate citizenship is not dependent on
- 24 landfill expansion. All corporations have the
- 25 responsibility to be good citizens. These should not

- 1 be considered part of a Statement of Overriding
- 2 Considerations.
- 3 The combination of reopening Sonoma County
- 4 central landfill, removal of methane-generating
- 5 organics from the landfill, and elimination of green
- 6 waste as ADC, and implementation of a basic zero waste
- 7 strategy will contribute to double the life of the
- 8 Redwood Landfill.
- 9 The Green Coalition and our teams of experts
- 10 do not believe that the benefits of the project
- 11 outweighs the significant and unavoidable negative
- 12 impacts.
- 13 We implore you in undertaking your
- 14 responsibilities on this permit application to keep in
- 15 mind the health and welfare of the Marin County
- 16 citizens and our future California taxpayers.
- 17 This is not an inland dry landfill where just
- 18 meeting minimum state requirements and checking the
- 19 review box should suffice. This is a growing mound of
- 20 garbage piled on old sloughs underlying a tidal marsh,
- 21 below sea level, in contact with groundwater, in a
- 22 floodplain, and between two earthquake faults
- 23 without over -- with over a 90 percent chance of a 6.7
- 24 earthquake in the next 30 years as Ms. La Porta
- 25 mentioned.

1 We ask the full Board to hold off a final vote

- 2 until January after Marin conducts its 44307 hearing.
- 3 This issue deserves the full Board's careful attention
- 4 and deliberation.
- 5 Because this permit and CEQA law requires a
- 6 Statement of Overriding Considerations to overcome the
- 7 negative environmental impacts, you have the ability to
- 8 say no and send it back.
- 9 In conclusion, the Green Coalition urges this
- 10 panel to reject the option that the Board adopt Marin's
- 11 LEA Statement of Overriding Considerations and CEQA
- 12 findings as its own and send the application back to
- 13 the LEA to fix the defects in it and allow Marin to
- 14 conduct our own AB 59 or 44307 hearing.
- 15 We also ask that you conduct, if possible, a
- 16 special meeting prior to January 21st if in fact that
- 17 will be necessary.
- 18 Thank you for your time.
- 19 CHAIRPERSON BROWN: Thank you Mr. Baum. Our
- 20 next speaker is Kelly Smith.
- MR. TAM: Mr. Smith, who represents the two
- 22 organizations that one of the next speakers, myself, is
- 23 for -- I'm David Tam -- asked that I go before him.
- 24 Should I wait until you've got another
- 25 speaker? We would like to go back-to-back. Is that

- 1 all right, Madam?
- 2 CHAIRPERSON BROWN: Yeah. That's not the
- 3 order they were submitted. We generally take them in
- 4 order.
- 5 MR. TAM: Well, please call the next speaker
- 6 after Mr. Smith and then --
- 7 CHAIRPERSON BROWN: I do have another speaker
- 8 then, and I'll call you next, Mr. Tam. Patty
- 9 Garbarino.
- 10 MS. GARBARINO: Good afternoon, and thank you,
- 11 Madam Chair and Board. I would like to acknowledge as
- 12 well the hard work of the staff.
- 13 My name is Patty Garbarino. I'm president of
- 14 Marin Sanitary Service and oversee the operations of
- 15 its affiliates, Marin Recycling Center and Marin
- 16 Resource Recovery Center. First indoor dump in the
- 17 nation. First county-wide curbside recycling program
- 18 in the nation.
- 19 My father, Joe, a far better speaker than I,
- 20 isn't here so I'm going to share a short story about
- 21 him. 1988, he lost a heated debate with
- 22 then-Assemblymember Byron Sher about the potential
- 23 successes of AB 939 and the lack of markets when
- 24 Assemblyman Sher stopped him up by stating: I don't
- 25 understand your concern, Mr. Garbarino. I modeled this

- 1 bill after your facility.
- 2 Ton-for-ton, we recycle over 70 percent of
- 3 what we handle. I'm here today to encourage you to
- 4 adopt this revised solid waste facilities permit at
- 5 Redwood Landfill and that you encourage the inclusion
- 6 of food waste composting.
- 7 I'm also fortunate to be a member of the
- 8 California Refuse Recycling Council. As a member of
- 9 the executive committee, I've traveled the state
- 10 soaking up information on haulers and recyclers,
- 11 processors and landfill operators. While picking up
- 12 many good ideas, I've also learned who runs
- 13 environmentally sound, well-run operations and who does
- 14 not.
- 15 I'm here to confidently state that Redwood
- 16 Landfill has one of the best reputations for landfill
- 17 operations in the state. They monitor and treat the
- 18 waste we throw away as good environmental stewards. I
- 19 therefore humbly ask you to once again adopt the
- 20 revised solid waste facilities permit application.
- Now my personal reason for getting up at 4:00,
- 22 getting on Amtrak, and coming here to testify. Marin
- 23 County has led the state and the nation with the
- 24 highest per capita recycling rates. In truly getting
- 25 to zero, we need your help.

- 1 We need to move on and implement at the
- 2 landfill fundamentally sound programs like food waste
- 3 composting, methane to energy, C&D recovery.
- 4 Therefore, on behalf of Marin's recycling
- 5 community, I thank you for your time and appreciate
- 6 your consideration.
- 7 CHAIRPERSON BROWN: Thank you very much,
- 8 Patty. Okay.
- 9 Now let me reorder them for you, Mr. Tam.
- 10 Okay, David Tam.
- 11 MR. TAM: David Tam. I'm the legislative
- 12 chair of the Northern California Recycling Association,
- 13 and I am also the founder of a small nonprofit legal
- 14 defense fund called, acronymically, SPRAWLDEF.
- We have already engaged the Potrero Hills
- 16 landfill in three lawsuits, and our attorney for both
- 17 organizations is here this afternoon after me, Kelly
- 18 Smith of Sacramento, who has been around for quite a
- 19 while on these matters.
- 20 I just want to address two things, or perhaps
- 21 three, and I think I can do that pretty briefly.
- 22 The -- first of all, we concur in the request
- 23 by Bruce Baum on behalf of the Green Coalition that you
- 24 not act on this permit today but give the time to those
- 25 who have asked for a Section 44307 hearing from Marin

- 1 County's, I guess, Administrative Law Judge to do that
- 2 and bring those facts back to you.
- 3 It may take more than one hearing, but I think
- 4 the facts that are manifestly absent from the EIR that
- 5 is before you have to do with areas that are your
- 6 proper purview, whether or not you consider them to be,
- 7 that -- in your purview with respect to a permit.
- 8 Above all, the issue of regional solid waste planning.
- 9 Now as it happens, the only operating landfill
- 10 on the entire north coast north of the Golden Gate is
- 11 the Redwood Landfill. So we all know and need to be
- 12 mindful that something does have to be done until that
- 13 day when we all hope we arrive at practically zero
- 14 waste.
- 15 But this EIR, and the mitigated alternative of
- 16 which it is the subject, basically does not contemplate
- 17 doing what we think would be the environmentally
- 18 superior alternative, which is the zero waste
- 19 alternative, or a greatly ramped-up program on the
- 20 order of what is being done just across the Golden Gate
- 21 in San Francisco where they are actually, by weight,
- 22 diverting 70 percent.
- Not diverting as it's calculated by the Waste
- 24 Board and the AB 939 formula, but 70 percent by weight
- 25 is not going to the Altamont landfill or any other

- 1 landfill. It's been loop-closed in the Bay Area.
- 2 That's what isn't happening yet, despite noble
- 3 efforts by the Garbarino family and others in Marin
- 4 County. It's just not at that level yet.
- 5 So this application and Marin County are not
- 6 yet ready for prime time. Marin County is a poster
- 7 child for AB 939's shortcomings. The EIR that you're
- 8 being asked to concur in shows that Marin County is
- 9 inadequate in describing the regional solid waste
- 10 planning realities and potential of the no-project
- 11 alternative, which is not only environmentally superior
- 12 but also feasible.
- 13 Marin generates ten pounds per person per day
- 14 according, to the EIR, of municipal solid waste.
- By the way, I have to ask at this point the
- 16 permission to submit a corrected copy of the written
- 17 testimony from which I am reading because when I did it
- 18 this morning I didn't notice that I had the 2006
- 19 figures, and it says in what you have before you 2007.
- 20 So I'll read it as it should be, and at least
- 21 it will be in the record that way.
- For a 2007 population of 257,080, Department
- of Finance estimates, that translates to about 469,000
- 24 tons of discarded materials generated by Marin County
- 25 in 2006.

- Data on the website identifies about 199,000
- 2 tons disposed and almost 52,000 tons used as ADC from
- 3 Marin County at Redwood Landfill in 2006 and another
- 4 58,000 and change disposed or ADC'd at the Potrero
- 5 Hills Landfill in Solano County.
- 6 So in that year, the total landfilling was
- 7 257,000 tons. Now that's 55 percent of the weight that
- 8 the EIR says is generated by Marin County. That isn't
- 9 a 70 percent diversion. It may be a 70 percent
- 10 diversion rate, but it's not -- AB 939 and its
- 11 methodology for assessing progress is not working.
- 12 It's misleading to anybody who doesn't really delve
- 13 deeply into the figures.
- 14 While ADC is counted as recycling per state
- 15 legislation of about seven or eight years ago --
- 16 perhaps a little more -- and by the way, not because
- 17 northern California cities wanted it, but I'm afraid it
- 18 was Los Angeles that wanted it -- few Bay Area citizens
- 19 who are told that Marin County sent almost 52,000 tons
- 20 of compostable materials to be used as landfill cover
- 21 is going to think of that as anything other than
- 22 landfill. They don't think of it as recalling.
- 23 So there's another 11 percent of Marin's
- 24 weight in 2006 added to the 55 that was landfilled that
- 25 is ADC. That's two out of three pounds -- tons.

- 1 Basically, I calculate that Marin County is probably
- 2 doing just about 34 percent recycling by weight tons
- 3 recycled or composted or reused or reduced divided by
- 4 the total tons in this EIR which you're being asked to
- 5 say is adequate.
- If it can't describe the situation as it
- 7 exists now, it would be, I think, very difficult to
- 8 persuade a fair-minded person that it is adequate. If
- 9 it doesn't do that -- and it didn't -- I would ask then
- 10 why didn't it evaluate the no-project alternative?
- I happen to be one of the people along with
- 12 Mr. Arthur Boone over here from Alameda County that got
- 13 a recycling initiative approved by the voters in 1990
- 14 by about a 63 percent yes vote. We do have
- 15 adequately-funded programs over there.
- 16 When we found out about Redwood Landfill --
- 17 the way we found out was we weren't getting -- our
- 18 revenues were dropping off from the Altamont Landfill
- 19 because Waste Management was hauling tons over to
- 20 Redwood which didn't have fees in place for recycling.
- 21 We got a little bit huffy about that, I
- 22 suppose, but we were trying to be constructive. We
- 23 said to the Marin County people: Why don't you do what
- 24 we did in Alameda County? Basically get a community
- 25 monitor, have a recycling board, have a big recycling

- 1 surcharge.
- 2 In Alameda County now, it's about \$16 a ton
- 3 compared to \$7 a ton at Redwood. It's over \$20 a ton
- 4 in San Francisco and Napa counties. Almost \$19 in San
- 5 Jose and Santa Clara County.
- 6 This is what Marin County could have done.
- 7 And at any time, I'm sure, the planning director and
- 8 the county administrator of Marin County could have
- 9 told whoever was working with the consultant that
- 10 prepared this EIR, look, let's look at a no-project
- 11 alternative of doing what's being done in Alameda
- 12 County. Or in San Francisco.
- 13 That didn't happen, despite repeated testimony
- 14 not just from us regional interlopers from over in
- 15 Alameda County, but by many people in Marin County.
- So I can't really emphasize enough that I
- 17 think that the Marin environmental process was not
- 18 responsive to really substantive criticisms of what
- 19 should be happening and -- is happening, by the way --
- 20 in other counties like Alameda, Santa Cruz, San Jose,
- 21 Santa Clara County, San Mateo County, San Francisco and
- 22 other counties that are truly committed to zero waste.
- 23 CHAIRPERSON BROWN: Mr. Tam, I have to
- 24 interject at this point. These are issues that are
- 25 germane to the local jurisdiction and not to the permit

- 1 that's before us.
- 2 And in the interest of allowing the people
- 3 following you to have the same opportunity to speak as
- 4 you, I would like you to keep your comments to the
- 5 specific permit that's before this Board.
- 6 What you're describing now is a process that
- 7 AB 939 vested in the local agency and in the local
- 8 government, and those are issues that need to be
- 9 addressed at the local planning level.
- 10 So if you could tailor your comments
- 11 specifically to the permit that's before us, I would
- 12 really appreciate it, to allow for other people to have
- 13 the same opportunity.
- 14 MR. TAM: I thank the chair for her solicitude
- 15 for the instructions that you have been given by the
- 16 Legislature as to how to do your job.
- 17 Finally, the Marin Environmental Health
- 18 Services Director could at any time in the proceedings
- 19 this summer have basically looked at the permit and the
- 20 public comments and said you're not looking at the --
- 21 at an environmentally superior alternative.
- Didn't do it. Well, he gets one more chance
- 23 on Friday.
- I have to say that if the no-project
- 25 alternative were undertaken and events in Sonoma County

- 1 and events that should have been happening and in train
- 2 in Marin County long before this were actually in force
- 3 now, we would have about six years' extra capacity on
- 4 the existing permit. And that would get us just where
- 5 Dr. Kerr said we were this morning in his testimony,
- 6 and that is you got 15 years' capacity.
- Well, you can have the 15 years' capacity by
- 8 doing the right thing without approving this project.
- 9 What the Board needs to do in its leadership role is to
- 10 give Marin County a little tough love.
- 11 CHAIRPERSON BROWN: Thank you, Mr. Tam.
- 12 Our next speaker is Kelly Smith.
- 13 MR. SMITH: Board Members, Madam Chair. Kelly
- 14 Smith. I'm here today representing SPRAWLDEF. That's
- 15 Sustainability Parks Recycling and Wildlife Defense
- 16 Fund. But you knew that.
- I wanted to go back to how I got started in
- 18 recycling, and it was in Santa Cruz when Mr. Laird was
- 19 on the city council and I got involved by fighting the
- 20 local landfill.
- 21 Eventually what we demanded and we got was one
- 22 of the first curbside programs in California. That was
- 23 back in the early '80s. We said why are we expanding a
- landfill when we don't have any kind of recovery
- 25 program?

- 1 In Santa Cruz, that was a very salient
- 2 argument. And still, even in Santa Cruz, with a lot of
- 3 resistance from the public works and all those kind of
- 4 people, it took a little while. But that's what it
- 5 takes.
- 6 And really that's why you're here. And if
- 7 you're not here to make sure that happens, why are you
- 8 here?
- 9 And that's the overall process that I want to
- 10 direct my comments to. This is no different than
- 11 many -- excuse me -- this is no different than any of
- 12 the landfill expansions that this Board has ever had in
- 13 front of it.
- 14 It is a legacy landfill. It was built in the
- 15 day before any kind of thought, controls, environmental
- 16 review or anything. Looking for an expansion. This is
- 17 everywhere. This is California waste today.
- 18 And this Board and AB 939 was put in place to
- 19 say that before we have landfills we have these other
- 20 things. And that all becomes a totem. And -- unless
- 21 this Board acts, unless this Board changes the way that
- 22 it's going to deal with these matters.
- 23 If we are not going -- what's different about
- 24 this landfill is, again, gives you a chance to do
- 25 things differently.

- 1 I think you should, and there are a couple
- 2 reasons -- I understand that there are legal parameters
- 3 to your authority, but what I hear again here today
- 4 that is perennial is the limited scope of your
- 5 authority. How little you can do. How restrained you
- 6 are by the jurisdictions of other agencies in the
- 7 process. And the LEA.
- 8 I want to get to this AB 59 process. I take
- 9 issue somewhat with the interpretations of your
- 10 counsel, and not because they haven't given it
- 11 thought -- a good thought. But I have a different
- 12 perspective I'd like to get to on why I think it's
- 13 important here.
- 14 But this notion of a regional planning that
- 15 David talked about that you say should be done at the
- 16 local level. If it's not done at the local level, who
- 17 is going to make sure it gets done? That's you guys.
- 18 If you're not going to do it, why are you here today?
- 19 We have a planning process. It's a bunch of
- 20 paperwork. It's a rigamarole. It's a bunch of
- 21 meetings. That's all we have. That's all we have.
- 22 If somebody -- some board -- is not going to
- 23 put a fact in force to that process, who is going to do
- 24 it? Okay?
- 25 If it -- and here we have an example where it

- 1 hasn't been done. The NDFE, this composting facility
- 2 that's gone along for almost ten years with no permit,
- 3 no -- the community hasn't had any say in like, should
- 4 we be taking all our sludge there? Should we be taking
- 5 all our compost there? Maybe that's not a good idea.
- 6 Can we think about it?
- 7 It hasn't been done. And that's what it's
- 8 about. And if you guys aren't going to make sure that
- 9 happens, why are you here?
- 10 On the AB 59 process. I call it the 44307
- 11 from the PRC code. It's true that your ability to
- 12 reject or accept affirmatively a permit revision or
- 13 application is fairly narrow, and your counsel gave you
- 14 the reasons for doing that.
- Now the ability of the Local Enforcement
- 16 Agency -- and this is something else that I think
- 17 particularly the new Board Members need to get familiar
- 18 with, is our local enforcement agencies -- you probably
- 19 have some idea about them.
- 20 But their scope, their ability, is actually
- 21 broader than the Board's. So the public at the local
- 22 level, using the processes of AB 939, have been given
- 23 the ability to bring the defects, many of them
- 24 technical and ones that I would argue differently
- 25 than -- different from your counsel, many of those

- 1 issues not within the scope of what we would be able to
- 2 present today.
- For example, some of the technical argument.
- 4 Expert testimony in a quasi-judicial hearing which this
- 5 provides. This is not that. Okay.
- 6 That process allows us to look at more detail,
- 7 at a broader scope. For example, I think the evidence
- 8 is in the record of that today in that the permit
- 9 conditions and the LEA activity has been a lot around
- 10 this independent monitor for landfill gas.
- Now landfill gas seems to be one of these
- 12 things that wisps away in terms of whose responsibility
- 13 it is between the air board, you guys. I see on your
- 14 website you're claiming credit for doing all kinds of
- 15 great things. Here's where it gets done or not.
- 16 If you guys aren't going to take care of it,
- 17 who is going to do it?
- 18 That kind of thing can be done in the AB 59
- 19 hearing process. And it can come back to you guys, I
- 20 think, with a broader scope of discretion to -- I'm
- 21 going to say redraft that permit. Broader than you
- 22 have under 44009, I believe it was. And I believe that
- 23 comports with what your counsel has said.
- 24 So that's an important process, and I think
- 25 for that reason it's a good reason for delaying this

- 1 action until you get it.
- 2 Now I want to make sure I understood one thing
- 3 from your counsel or the sense I got from -- in
- 4 response to Mr. Laird's comment -- question, was that
- 5 this action if you took it today will not prejudice the
- 6 ruling of that administrative review at the 44307
- 7 level. I want to make sure that's clear.
- 8 I want to say that's my interpretation. If
- 9 it's wrong, I'd like to know because we often find that
- 10 when those rulings are made in appeals by the operator
- or the LEA, they say it's moot because you guys already
- 12 acted.
- I want to say clearly that we have not had a
- 14 chance to bring all the evidence that we should be able
- to present to bear on that 44307.
- Now, all that said procedurally and so forth,
- 17 I do want to say that these people don't want that
- 18 landfill there. It's a stupid place. They have every
- 19 right not to want that landfill there.
- 20 But they have bent over backwards to try to
- 21 put improvements in that permit to make it palatable,
- 22 you know, to accept it being there for whatever time it
- 23 has to be.
- 24 They have tried to speak with the operator
- 25 about getting the assurances they need on some of these

- 1 things. As recently as yesterday, we tried to talk
- 2 with them about ways that we may be able to sign off on
- 3 this permit. And we haven't been able to.
- 4 So they can run over this Board. I mean,
- 5 Waste Management, Inc. is a powerful, powerful
- 6 political player. Garbage companies are very powerful
- 7 politically. And they can run over this Board, and
- 8 they can get their permit today.
- 9 Or you can start today by at least putting it
- 10 over until there is a full Board. This is an important
- 11 decision. This is an important change of direction.
- 12 Putting it over, and allowing some time for the parties
- 13 to perhaps work it out to get the very best ongoing
- 14 operation, put the best improvements to this permit
- 15 that are possible on a site that is inherently bad.
- 16 Thank you.
- 17 CHAIRPERSON BROWN: Mr. Smith, I will at least
- 18 mention for the record that if you do have technical
- 19 data and technical documents, those have been submitted
- 20 in the Board's consideration of permits, and those
- 21 should be addressed here.
- 22 If you're holding back information that you
- 23 feel is relevant or pertinent to this document, it
- 24 should have been submitted to our staff. And it should
- 25 today, because that is the jurisdiction of this Board.

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1 If you have technical information, we have
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- 2 engineers and landfill scientists and experts here that
- 3 evaluate that. And if you are holding it back, then
- 4 you're not fully participating in the process that has
- 5 been vested in this Board. So I would encourage you.
- 6 MR. SMITH: Chairwoman, I object to that
- 7 characterization as holding it back. That's not --
- 8 CHAIRPERSON BROWN: Well, that's what you --
- 9 MR. SMITH: -- what I'm saying at all.
- 10 CHAIRPERSON BROWN: No, I'm just asking.
- 11 MR. SMITH: I'm saying there's a different
- 12 scope to the 44307 process; and within that scope,
- other things may be presented.
- 14 CHAIRPERSON BROWN: You just stated, and I am
- 15 just asking: You stated that you had information that
- 16 was going to be presented there that you have not
- 17 submitted here that's technical in nature.
- 18 So I'm simply stating: If you have
- 19 information, I would encourage you to provide it to our
- 20 staff for consideration during this proceeding of the
- 21 consideration of this permit.
- MR. SMITH: That's an inaccurate
- 23 characterization of what I said.
- I said there may be evidence that turns up in
- 25 that process. Why hold the process at the 44307 level

- 1 if, you know, I mean that evidence could come from the
- 2 other side.
- 3 The benefit of the 44307 process is we get to
- 4 put the landfill operator and the LEA on the spot. And
- 5 I find that that's where you get the best information.
- 6 CHAIRPERSON BROWN: Well, they're right here
- 7 before this Board.
- 8 MR. SMITH: Can I call them up and examine
- 9 them Chairman, -woman?
- 10 CHAIRPERSON BROWN: This is not --
- 11 MR. SMITH: I'd be glad to.
- 12 CHAIRPERSON BROWN: This is not a court
- 13 proceeding --
- MR. SMITH: I know that.
- 15 CHAIRPERSON BROWN: -- Mr. Smith, and you know
- 16 that.
- 17 MR. SMITH: That is. It's quasi-judicial.
- 18 It's different from this. That's why. Thank you.
- 19 CHAIRPERSON BROWN: Thank you for being here,
- 20 Mr. Smith.
- 21 Mr. Boone?
- MR. BOONE: My name is Arthur Boone.
- I am the zero waste chair for the Sierra Club
- 24 of California. It's another hat that I wear. That's a
- volunteer position. We have 400,000 members in the

- 1 State of California.
- 2 We used to testify in favor of some landfills
- 3 and against others because at one point in time we were
- 4 concerned about things like how far garbage got
- 5 shipped, try to keep the trucks off the road, try to
- 6 pick out some valleys better than other valleys and all
- 7 that kind of stuff.
- 8 But a couple of years ago, we basically
- 9 changed our orientation and our attitude, and we
- 10 basically have renamed the national committee as the
- 11 zero waste committee. The state committee is now a
- 12 zero waste committee. Most of the local committees
- 13 which used to be solid waste and recycling are now zero
- 14 waste committees.
- 15 What we decided is that instead of liking
- 16 every landfill that we saw or trying to pick between
- 17 them, we decided we wouldn't like any landfills.
- 18 And this is one of them.
- 19 One of the reasons we don't like it is because
- 20 it is built on bay mud. I have in my hands a copy of
- 21 the decision of the federal district court of San
- 22 Francisco in 2001. The landfill in San Leandro, which
- 23 was built very similarly to the Redwood landfill,
- 24 essentially began to leak.
- 25 After adjudication of liability, Waste

- 1 Management is now in the process of spending
- 2 \$50 million basically to make sure that the materials
- 3 in that landfill do not seep out through the mud of the
- 4 landfill.
- 5 The case is published in the Federal
- 6 Supplement. If you'd like to read it, I'll give the
- 7 number to your counsel.
- 8 The only other thing I wanted to say is that I
- 9 have a personal stake in the garbage that came to
- 10 Marin. Mr. Tam referred to it.
- 11 They took 120,000 tons out of the transfer
- 12 station in San Leandro and trucked it across the bridge
- 13 to the landfill in Novato or in the Redwood Landfill.
- 14 The question is: If they were really concerned to
- 15 protect the capacity of that landfill and to make it
- 16 last until 2039, which is what the original projection
- 17 was, rather than now being filled in 2016, they
- 18 wouldn't have done that.
- 19 But they moved it across the bay because they
- 20 didn't have to pay the Alameda County taxes.
- One of the problems we have in Potrero Hill,
- 22 same kind of issue. Basically, counties are setting
- 23 their landfill fees low; people are driving trucks long
- 24 distances to bring stuff. That's deleterious.
- 25 Last thing I'd like to say. Next -- tomorrow,

- 1 the Alameda County Waste Management Authority is
- 2 considering its proposal to ban all yard debris from
- 3 landfills in Alameda County. And again, we'd like to
- 4 think that we're -- the local government is, as you
- 5 know, the laboratory for state policy. We hope that
- 6 moves forward.
- 7 Thank you very much.
- 8 CHAIRPERSON BROWN: Thank you, Mr. Boone.
- 9 Our next speaker is Roger Roberts.
- 10 MR. ROBERTS: Good afternoon, Madam Chair and
- 11 Board Members. My name is Roger Roberts. I am a Board
- 12 Member of the Marin Conservation League, and we have
- 13 been interested in this project for over ten years, and
- 14 it has been a long and laborious process.
- 15 Marin Conservation League is an environmental
- 16 advocacy organization dedicated to the preservation and
- 17 protection of the natural resources of Marin County.
- 18 As we've already testified before the
- 19 Permitting and Compliance Committee last week, the
- 20 Marin Conservation League has been following this
- 21 project for some time. We have supported the revised
- 22 and mitigated alternative project in the FEIR provided,
- 23 and only provided, that there are strict performance
- 24 standards and controls on operations and closure in
- 25 place.

- 1 We believe it is important that the permit
- 2 conditions contained in this permit before you today be
- 3 strengthened, and we ask that the following principles
- 4 be embedded in the solid waste facility permit that you
- 5 are reviewing today.
- 6 The permit states that there will be an
- 7 independent party, third party performance monitor of
- 8 the Redwood Landfill and their compliance with all the
- 9 terms and conditions of the permit and the associated
- 10 MMRP. This is subject to review after three years in
- 11 the language of the permit before you.
- 12 It is essential and important to retain an
- 13 independent third-party performance monitor for the
- 14 entire period of the permitted operations and closure,
- 15 and there must be no attempts to change, modify, or
- 16 limit this condition by the LEA or the Waste Board
- 17 acting in concert unless there is an open and
- 18 transparent public review process.
- 19 In this connection, we request that the words
- 20 to eliminate quote/unquote that are in the language of
- 21 Condition S of the permit relative to the independent
- 22 third-party monitor for compliance be stricken from the
- 23 language of this permit.
- 24 The continued operation of the Redwood
- 25 Landfill and its ability to take advantage of increased

- 1 capacity utilization should be strictly tied to
- 2 satisfactory completion of all the performance
- 3 standards and milestones contained within the
- 4 conditions of the permit and of the MMRP.
- 5 The Redwood Landfill and Waste Management may
- 6 argue that its failure to meet the performance
- 7 standards will subject them to closure action until
- 8 they are met so that this approach or procedure is not
- 9 needed.
- 10 However, we believe that it is unlikely that
- 11 either the LEA or the Waste Management Board would
- 12 likely take such an action because of the disruptive
- 13 effects of the solid waste disposal stream in effect.
- 14 The threat of closure does not necessarily
- 15 ensure the completion of performance conditions,
- 16 whereas inability to take advantage of increased
- 17 capacity utilization does.
- 18 There are a number of required conditions
- 19 associated with reduction of greenhouse gas emissions,
- 20 establishment of C&D operation, expansion of composting
- 21 and resource recovery, operations, and completion of
- 22 levee improvements and construction within the next few
- 23 years, some taking place within two or three years.
- We submit that these essential near-term
- 25 objectives of the permit must be completed

- 1 satisfactorily as scheduled as a condition precedent of
- 2 the site utilization capacity that is to be permitted
- 3 under this permit and that the permit must be clear and
- 4 unequivocal on this point.
- 5 The 2006 Marin County greenhouse gas reduction
- 6 plan is also referred to and included within the 2007
- 7 Marin county-wide plan, and it establishes the county's
- 8 greenhouse gas emissions target of 15 percent reduction
- 9 below 1990 levels by 2020.
- 10 Permit Condition T regarding additional
- 11 landfill utilization capacity beyond the 1995 permitted
- 12 capacity is only tied to achieving a 25 percent
- 13 reduction from the 2008 baseline, and they must do this
- 14 by 2015.
- We submit that this may or may not be
- 16 meaningful with respect to helping to meet the County
- 17 1990 baseline objectives of 15 percent reduction below
- 18 1990 uses by 2020, and we suggest that the 15 percent
- 19 reduction target below 1990 levels of greenhouse gas
- 20 emissions also be required of the Redwood Landfill by
- 21 2020 in order to allow continued utilization of
- 22 expanded landfill capacity.
- Now you've all heard what a high-risk landfill
- 24 site this is, and we agree with many of the previous
- 25 speakers and would argue strenuously that the language

- 1 of this permit should require independent third-party
- 2 financial bonding from secure and unquestioned sources
- 3 in amounts sufficient to remedy catastrophic and other
- 4 potential future landfill failures, including the cost
- 5 of consequential environmental cleanup that may be
- 6 required.
- 7 We believe this is important to cite a policy
- 8 principle in this permit notwithstanding pending
- 9 regulations pursuant to the implementation of AB 2296.
- 10 Thank you for your consideration.
- 11 CHAIRPERSON BROWN: Thank you very much,
- 12 Mr. Roberts, for being here again.
- 13 And our last speaker, before we do staff and
- 14 the LEA, Jessica Jones.
- 15 MS. JONES: Good afternoon. I'm Jessica
- Jones, and I'm the manager of Redwood Landfill and
- 17 Recycling Center.
- 18 Before I get started, I want to thank Board
- 19 staff, the County LEA, and the County Community
- 20 Development Agency for all of their work in this long
- 21 process.
- 22 I'm going to keep my presentation very brief,
- 23 and I just want to go over a few things with you.
- 24 Specifically, just a few comments about several key
- 25 features of the landfill and the importance of this

- 1 permit in helping us transform our operation.
- 2 As a previous speaker said, this is an
- 3 important change of direction, and we completely agree.
- 4 It will help transform us to meet the environmental
- 5 goals of both the State and Marin County.
- 6 First, we have an excellent compliance record.
- 7 We feel our operations go well beyond state minimum
- 8 standards.
- 9 Second, we have no neighbors in close
- 10 proximity to the site. The EIR identified our nearest
- 11 neighbors at 2.5 miles away. Nonetheless, I would like
- 12 to stress that the public participation process has
- 13 been extremely involved and has spanned eight years.
- 14 In addition to the extensive formal EIR
- 15 process, we sponsored many informal opportunities for
- 16 citizens to be heard. We maintain an open-door policy,
- 17 encouraging elected officials, environmental
- 18 organizations, concerned citizens, and educational
- 19 groups to visit the site on an ongoing basis.
- 20 We have provided tours of the landfill and
- 21 composting operations recently for three of your Board
- 22 members, Marin County supervisors, planning
- 23 commissioners and other community members; and we have
- 24 sponsored open houses where the community members could
- 25 ask questions about the existing and proposed

- 1 operations, tour the facility, many of which events
- 2 were advertised in local papers.
- 3 Third, while it is true that our geographic
- 4 location requires a sophisticated and redundant
- 5 engineered system to fully protect water quality, the
- 6 natural clay liner meets or exceeds stringent federal
- 7 Subtitle D standards, and the facility operates in full
- 8 compliance with State Water Board requirements. The
- 9 system was also fully analyzed in the EIR.
- 10 And finally, I want to emphasize that the
- 11 permit before you today is not the project that we
- 12 originally proposed ten years ago.
- The original project sought a much larger
- 14 increase in site life as well as significant increases
- 15 in daily disposal activities. The permit submitted for
- 16 your consideration today reflects the environmentally
- 17 superior project identified through the EIR process and
- 18 preferred by the community.
- 19 This mitigated alternative includes no
- 20 increase in daily tonnage, no increase in permitted
- 21 height, and no change to the existing waste footprint
- 22 and includes nearly 100 specific new or enhanced
- 23 mitigation measures.
- 24 As a result of the hard work of county staff
- 25 to respond to all concerns raised in the process, the

- 1 nine members of the Marin County planning commission
- 2 unanimously supported recommendation for certification
- 3 of the EIR.
- 4 Several long-established environmental groups
- 5 have also voiced their support for the mitigated
- 6 alternative.
- 7 In conclusion, we want to continue to be a
- 8 good neighbor in the region. About 80 percent of
- 9 Marin's waste comes to us every day, and we reuse or
- 10 recycle about one-third of that waste. Of course, with
- 11 the mitigated alternative we will be able to do even
- 12 more. We also provide recycling and disposal
- 13 opportunities and services to neighboring Sonoma
- 14 County.
- This new permit will secure future disposal
- 16 capacity while allowing us to do an even better job of
- 17 supporting Marin County's zero waste goals.
- 18 Also, today we heard a lot of testimony from
- 19 the public and many inaccurate statements were made.
- 20 Rather than try to respond to them right now, I have a
- 21 technical team with me. I myself am also a registered
- 22 engineer, and we would like the opportunity to address
- 23 any questions you may have.
- 24 Thank you for your time.
- 25 CHAIRPERSON BROWN: Thank you, Jessica, for

- 1 being here.
- 2 And I think at this point we'll turn it back
- 3 to staff -- to Ted, Mark, Reinhard -- to address any
- 4 issues that you think need clarification -- and
- 5 Rebecca, if there's some, as well.
- 6 MR. RAUH: Chair Brown, I think that what
- 7 we'll ask is Elliot to go first with some of the legal
- 8 issues that were raised, and then we're going to invite
- 9 the LEA up, as she's joined us, and then we'll address
- 10 the remaining issues.
- 11 CHIEF COUNSEL BLOCK: Thank you.
- 12 What I'd like to do is just make some general
- 13 comments somewhat along the lines that I did earlier
- 14 today and also last week about the scope of the
- 15 decision before you today; address a couple issues that
- 16 I've specifically been dealing with; and then turn it
- 17 back to Ted and his staff for anything that I missed
- 18 and perhaps Michael first on a couple of CEQA issues.
- 19 I'll try to be as concise as possible.
- 20 There's a lot of information that you got. If I could
- 21 characterize it one way, you've heard a lot of
- 22 information today from folks that think things ought to
- 23 be done a certain way and that the Board ought to do
- 24 things or require certain things.
- 25 However, the decision before you today isn't

- 1 that broad in scope.
- 2 The Legislature very carefully set out in
- 3 statute specific responsibilities for the Waste Board,
- 4 parsed those out between the Waste Board versus other
- 5 state agencies, parsed those out between state agencies
- 6 and local agencies, local decisions that need to be
- 7 made.
- 8 So despite the fact that a number of people
- 9 testifying wish the Board's authority to require things
- 10 for this landfill permit was greater than it was and
- 11 seem to be urging you to do that, the statute that we
- 12 are looking at is Public Resources Code Section 44009,
- 13 which I described earlier.
- 14 And some of the items that were raised today
- 15 as reasons why you should not approve this permit are
- 16 not things that are within your jurisdiction as a basis
- 17 for objecting.
- 18 The fact that it's sited in the wrong place?
- 19 The siting decision is a local decision. The fact that
- 20 rejecting this permit would somehow promote zero waste?
- 21 That's not part of the decision that you're making
- 22 today.
- The fact that some people would like greater
- 24 than state minimum standards to be applied to this
- 25 facility is not a basis for this decision if the permit

- 1 is consistent with state minimum standards. That's
- 2 explicitly out of the statute.
- 3 This is not a review of the County of Marin's
- 4 diversion rates. That's not what's before you today.
- 5 It's not a decision on whether you like green
- 6 waste ADC or not. Green waste ADC is authorized, as
- 7 was mentioned, by statute and regulation. It's a
- 8 separate issue from the issue before you as to whether
- 9 this permit that's before you today meets the
- 10 requirements under statute.
- 11 And to just add one more issue, because I
- 12 think it's one that was talked about a lot more today
- 13 than perhaps last week in that regard: Water issues.
- 14 Water issues are within the purview of the
- 15 Regional Water Quality Control Board.
- And interestingly enough, with the video that
- 17 you saw today, this landfill was contrasted with
- 18 Sonoma, the Sonoma landfill. That's a landfill that it
- 19 was mentioned that it was closed because there were
- 20 liner issues. It was the Water Board, through an
- 21 enforcement order, that closed that landfill.
- 22 That -- it's a perfect example; that's an
- 23 issue that's the Water Board's jurisdiction to take
- 24 care of. The Waste Board cannot close this landfill
- 25 because of issues that are within the Water Board's

- 1 jurisdiction.
- 2 It doesn't mean that's not a relevant issue.
- 3 It doesn't mean that's not something that could be
- 4 explored. It's not part of the decision today.
- 5 Specifically, to deal with a couple of issues
- 6 that I had talked about earlier, there was some
- 7 discussion about the nondisposal facility element. I'm
- 8 not sure what it was I said that either somehow was
- 9 misheard or somehow I misspoke.
- 10 I did not -- certainly never intended -- I
- 11 don't believe I said that the local task force reviewed
- 12 this facility in October. What I said was this
- 13 facility is included in the summary plan. That is a
- 14 document that the local task force has reviewed and
- 15 commented on.
- 16 But furthermore, the comments relating to the
- 17 ND- -- the nondisposal facility element. I'm
- 18 struggling to make sure not to use too many acronyms
- 19 for our newer members. The nondisposal facility
- 20 element, which we sometimes refer to as the NDFE --
- 21 further shows a misunderstanding of what that document
- 22 is.
- 23 It's essentially an inventory of diversion
- 24 facilities that are going to be used. It's not a
- 25 permitting document. It's not a document that can be

- 1 used to impose conditions on those facilities. That's
- 2 the place of the permit. It's a separate --
- 3 CHAIRPERSON BROWN: And the NDFE is a
- 4 county-wide planning document, not for this specific
- 5 facility.
- 6 CHIEF COUNSEL BLOCK: Well the NDFE is --
- 7 CHAIRPERSON BROWN: This facility --
- 8 CHIEF COUNSEL BLOCK: It includes a number of
- 9 facilities within the jurisdiction, yes.
- 10 CHAIRPERSON BROWN: Just clarify what it is.
- 11 CHIEF COUNSEL BLOCK: Right.
- 12 And then finally, the other issue I was going
- 13 to talk about, a couple of comments relating to the --
- 14 what I refer to as the AB 59 appeal hearing; what Kelly
- 15 Smith referred to as the 44307 hearing.
- Just to keep this short because there's a lot
- 17 to talk about, for the record I guess I need to
- 18 expressly say that I fundamentally disagree with how
- 19 the appeal process has been described by Kelly Smith
- 20 and what it includes.
- 21 And probably the shortest way to describe
- 22 that: Public Resources Code Section 44307 is a statute
- 23 that allows -- within the Waste Board statute -- that
- 24 allows somebody to appeal the LEA's actions.
- 25 The concept, as described by Mr. Smith, is

- 1 that somehow that hearing would open up this permit to
- 2 all sorts of conditions and issues that are outside of
- 3 the scope of the Public Resources Code.
- Fundamentally, that doesn't even make sense,
- 5 why there would be an appeal within our statute that
- 6 could somehow broaden the scope of what's covered
- 7 within our statute.
- 8 That's probably the quickest way I can explain
- 9 why fundamentally I have a problem with that. There
- 10 are a number of specific issues, and I certainly can
- 11 answer any questions on that.
- 12 So let me stop for a second and see if there
- 13 are any questions about what I talked about. And if
- 14 not, I probably want to turn this over to Michael next
- 15 to talk about some CEQA issues before we go back to the
- 16 program.
- 17 CHAIRPERSON BROWN: Senator Kuehl has a
- 18 question.
- 19 STAFF COUNSEL BLOCK: Sure.
- 20 BOARD MEMBER KUEHL: Counsel, I think one of
- 21 the speakers also, I think, attempted to indicate that
- 22 our jurisdiction is broader than you have described it
- 23 because of your statement in the briefing notes on the
- 24 agenda item about the Statement of Overriding
- 25 Considerations.

1	And you wrote or staff wrote:
2	Like the Lead Agency, a Responsible
3	Agency must adopt a Statement of
4	Overriding Considerations before it
5	approves or carries out a project for
б	which the Lead Agency's EIR identifies
7	significant unavoidable impacts. Board
8	staff have reviewed the LEA's SOC,
9	Statement of Consideration, and have
10	determined it is adequate for the
11	Board's use in its consideration of the
12	proposed permit. Therefore the staff
13	recommends the Board adopt the LEA's SOC
14	as its own.
15	And I though I disagree with the speaker,
16	the implication was that if we are adopting the whole
17	Statement of Overriding Considerations we're already
18	expanding our authority to issues that you say are not
19	within our authority, which I would maintain we can't
20	do anyway.
21	CHIEF COUNSEL BLOCK: Actually, thank you for
22	asking that question. That's a perfect segue because
23	that's actually what Michael Bledsoe of my staff is
24	going to talk about, why we are recommending adopting
25	that Statement of Overriding Considerations.

- 1 SENIOR STAFF COUNSEL BLEDSOE: Thank you,
- 2 Elliot. Michael Bledsoe from the Board's Legal Office.
- 3 I definitely think that's a fair question to
- 4 be raising, and I thought when Mr. Newell raised it,
- 5 you know, it is a fair question.
- 6 CEQA makes it very clear that a public
- 7 agency -- the ability of a public agency to mitigate
- 8 the impacts of a project or to disapprove a project can
- 9 only occur within that agency's jurisdiction. CEQA
- 10 doesn't give the agency any new powers that it did not
- 11 have under its -- basically its organic legislation.
- 12 The CEQA guidelines are not quite so clear
- 13 with respect to when a Responsible Agency must adopt a
- 14 Statement of Overriding Considerations.
- 15 Accordingly, in the interest of being
- 16 conservative and cautious in evaluating the situation,
- 17 we structured the resolution that the Board -- that's
- 18 being recommended to the Board for adoption today to
- 19 provide that we recommend that the Board adopt the
- 20 statement of override adopted by the Lead Agency.
- 21 Of course the Board certainly reserves the
- 22 ability to adopt a different Statement of Overriding
- 23 Considerations.
- 24 But we structured it to provide that to the
- 25 extent the impacts, the four air quality impacts that

- 1 are identified as the unmitigatable significant impacts
- 2 in the EIR -- to the extent those are caused by
- 3 activities within the Board's authority, then we're --
- 4 the Board is adopting a Statement of Overriding
- 5 Considerations with respect to those impacts.
- 6 Now, it is entirely possible -- and in the
- 7 event this matter reaches litigation, we may have a
- 8 judge help us out on this issue -- it's entirely
- 9 possible that the Board in this circumstances because
- 10 it does not have authority to mitigate or to disapprove
- 11 this project because of the significant air quality
- 12 impacts, the judge might say Waste Board, you do not
- 13 need to adopt the statement of override in this
- 14 situation.
- But I have found no case that says that.
- 16 Accordingly, I felt the safer course from the Board's
- 17 legal perspective is to proceed with adopting a
- 18 statement of override, limited as I have described it,
- 19 because it's better to adopt a statement of override
- 20 that you do not need than it is to fail to adopt a
- 21 statement of override that you do need.
- 22 So it's a no-harm if you adopt an additional
- 23 statement of override. But that's a fairly long
- 24 answer. This is not a simple question; we did wrestle
- 25 with it somewhat. But does that respond to your

- 1 question?
- 2 BOARD MEMBER KUEHL: Yes, sir. It does.
- 3 SENIOR STAFF COUNSEL BLEDSOE: Thank you.
- 4 So if I could take one more moment; there were
- 5 a couple of other CEQA issues that were raised.
- 6 Two speakers really challenged the findings in
- 7 the statement of override that the LEA adopted and is
- 8 recommending that the Board adopt on the basis of an
- 9 absence of substantial evidence to support those
- 10 findings -- which is a requirement. You know, the
- 11 findings that you adopt do have to be supported by
- 12 substantial evidence in the record.
- 13 It is our view based on review of the
- 14 documents and the LEA's review of the -- well, the
- 15 LEA's adoption of the statement of override that there
- 16 is substantial evidence in the record to support all of
- 17 the findings made in the statement of override.
- Now, in the event that a court should
- 19 determine there is not substantial evidence to support
- 20 one or more of the findings, we again structured the
- 21 resolution to provide that any of the findings in the
- 22 proposed Statement of Overriding Considerations is
- 23 sufficient to justify the Board's approval of this
- 24 project.
- 25 So if one of them is knocked out by the judge,

- 1 the remaining ones are still there, and they are
- 2 sufficient. So any single finding is sufficient for
- 3 the Board's determination that the benefits of the
- 4 project outweigh its significant environmental effects.
- 5 So it's not -- basically it's a package of
- 6 whatever it is, ten findings, any one of which is
- 7 sufficient for our purposes.
- 8 A couple of speakers noted that they disagreed
- 9 with the balancing effort that the LEA did and that is
- 10 proposed for the Board to take, that they did not feel
- 11 the benefits identified were sufficient to outweigh the
- 12 four significant environmental effects.
- Well, that's a weighing that is done by the
- 14 decision-maker, the LEA at the local level and the
- 15 Board at this level.
- So it's quite possible that we might have 200
- 17 different ways that those -- that balance between
- 18 environmental impact and benefit of the project would
- 19 be made. What really counts in this case is how the
- 20 five of you weigh the benefits versus the impacts.
- 21 And lastly, just a reminder that under CEQA
- 22 the Lead Agency has the obligation to prepare the
- 23 environmental document; the Responsible Agency is
- 24 required to utilize that environmental document.
- 25 So if the document -- we commented on it

- 1 during the preparation stage, and we have reviewed it,
- 2 and we are satisfied that it's legally sufficient for
- 3 our Board's use. If of course it turns out that a
- 4 judge decides that the final EIR was not sufficient, he
- 5 will set aside the local agency's approval, and we'll
- 6 go from there.
- 7 Thank you.
- 8 CHAIRPERSON BROWN: Thank you, Michael. And
- 9 Elliot.
- I guess that goes to Mr. De Bie?
- 11 DIVISION CHIEF DeBIE: Thank you, Madam Chair,
- 12 Board Members. Mark de Bie with the permits group.
- 13 I'm going to try to walk through these issues.
- 14 I know it's been a long day, so we'll do it as quickly
- 15 but as thoroughly as possible. We've asked Becky to
- 16 come up as the LEA so we can confer, and you heard that
- 17 the operator has technical experts that could also
- 18 participate as needed on this.
- 19 Elliot, I think, gave a good overview, again
- 20 emphasizing that the Board has a narrow scope. While
- 21 he was doing that, we put up the slide here that is
- 22 reflected in the agenda item that outlines the key
- 23 elements in 44004 -- or 9, sorry -- that are what the
- 24 Board's authority and responsibilities are focused on.
- So we'll just leave that up there as a

- 1 reminder that it's not a large, broad, siting, planning
- 2 kind of authority that the Board has relative to solid
- 3 waste facility permits.
- 4 Certainly the Board has authority and
- 5 responsibility to assist jurisdictions in planning; but
- 6 relative to permits, it gets pretty narrow very
- 7 quickly. And again, that chart emphasizes that.
- 8 CHAIRPERSON BROWN: Would you describe it as a
- 9 very defined scope of authority where there is a
- 10 defined scope that is allocated to the Regional Air
- 11 Board and a defined scope of work to the Regional Water
- 12 Quality Board?
- So I would characterize ours as a very defined
- 14 scope rather than a limited scope.
- 15 DIVISION CHIEF DeBIE: Very good. Yes.
- There is language both in statute as well in
- 17 regulation that speaks to the Board's authority to
- 18 speak to design and operation relative to public
- 19 health, safety and the environment and excludes the
- 20 Board overlapping and duplicating authority with air
- 21 quality or water quality specifically. So yes, more
- 22 defined.
- I wanted to point out for the Board, remind
- 24 the Board Members and for the new Board Members, that
- 25 the permit is written by the LEA but is fully supported

- 1 by an application; and part of that application is
- 2 something called a joint technical document which is
- 3 referenced by the permit which is a detailed
- 4 description of how this facility will be built and
- 5 operated.
- 6 And by virtue of the permit, the operator must
- 7 obey or follow that design and that operation. So
- 8 we're looking at a document that's multiple volumes,
- 9 very thick, lots of details.
- 10 The permit references that as well as pulling
- 11 in things like mitigation measures and that sort of
- 12 thing. So if you look at the whole record, there is a
- 13 lot of requirements on here. We had a slide up that I
- 14 think it was 63 mitigation measures.
- That's over and above the minimum
- 16 requirements. That's site-specific but over and above
- 17 just the minimum requirements.
- 18 I wanted to clarify a few specific number
- 19 issues. There was some testimony about green waste and
- 20 being used as ADC and erosion control. That's a
- 21 typical function at landfills, to utilize materials
- 22 coming in to substitute for dirt in order to cover the
- 23 waste to reduce the impacts associated with exposed
- 24 waste between operation cycles, prevent odors, vectors,
- 25 litter, that sort of thing.

- 1 It's a typical operational design to utilize
- 2 green waste to do that. Erosion control likewise.
- 3 This permit also puts a limit on the amount of
- 4 material that can be received and utilized at the site
- 5 per day. The current permit is unlimited, so the
- 6 operator could use any amount at any time. With this
- 7 permit, there is a narrowing of that down to 300 tons
- 8 per day.
- 9 Likewise, there is a reduction in the
- 10 potential for sludge coming in to the site from the
- 11 current limit of 1,000 tons per day down to 230 tons
- 12 per day.
- 13 So with those restrictions there, you're
- 14 forcing that material to be focused more to a recycling
- 15 and less to a disposal activity at the site, so there
- 16 is a shift there in the numbers relative to those two
- 17 waste streams.
- 18 We heard some testimony about wildlife
- 19 disturbance which was a new issue that we hadn't heard
- 20 at committee, and so we conferred with the LEA relative
- 21 to the level of review in that area in the CEQA
- 22 document.
- 23 Becky's indicated that it was thoroughly
- 24 reviewed, the effect on wildlife disturbance. So I
- 25 don't know if you want to cite specific aspects of that

- 1 now, Becky, or we'll leave it there.
- MS. NG: Wildlife was addressed, analyzed.
- 3 There are at least ten mitigation measures addressing
- 4 different aspects of the operation that could -- to
- 5 reduce or eliminate impacts to wildlife including
- 6 plants, wetlands, clapper rails, red-legged frogs,
- 7 western pond turtles, bats, and of course bird control.
- 8 So the wildlife was definitely analyzed in
- 9 that EIR.
- 10 DIVISION CHIEF DeBIE: And any required
- 11 mitigation measures were imposed, correct?
- MS. NG: At least ten mitigation measures were
- imposed.
- 14 DIVISION CHIEF DeBIE: Okay. Excuse us; we're
- 15 going to skip around a little bit in terms of issues
- 16 that are not organized by theme here, so.
- 17 The next one that was new to me was a lot of
- 18 testimony relative to the 1958 landfill being
- 19 constructed on sloughs and the underlying muds and that
- 20 there was no liner and various aspects in and around
- 21 that issue.
- We conferred with the LEA again. There is no
- 23 evidence that we're aware of in the record that this
- 24 site has ever had any corrective action issued by the
- 25 Regional Board relative to ground or surface water.

- 1 Typically, if there is an issue with leakage
- 2 and effects on groundwater, the Water Board would be
- 3 all over it. You heard Elliot mention about the site
- 4 in Sonoma. There was a leak there. The Water Board
- 5 imposed their restrictions and ended up closing the
- 6 site prematurely.
- 7 It's the same -- I believe it's the same
- 8 Regional Board that is associated -- no, it's a
- 9 different one? Okay.
- 10 But the requirements are the same between
- 11 Regional Boards relative to landfills and how they
- 12 approach that. So it's not -- Redwood is not unique in
- 13 that it is built in this geology with the underlying
- 14 muds. There are other bay landfills.
- 15 You heard testimony of one site that did leak.
- 16 It's our understanding that that was a site that closed
- in the '80s potentially prior to the current closure
- 18 requirements. That may contribute; we don't know.
- 19 But Redwood Landfill is being held to a higher
- 20 standard relative to design operation as it's an active
- 21 site than older 1980, pre-1980 sites, as well as the
- 22 closure requirements are much greater as well as the
- 23 monitoring requirements.
- 24 But again, I'll leave that issue with just a
- 25 recognition that as far as we're aware -- and the LEA

- 1 can confirm as well as the operator -- that there are
- 2 no known groundwater issues associated with the site
- 3 that's been there since 1958.
- 4 Relative to questions on the levee, I'll let
- 5 the LEA confirm again that the levees have been built
- 6 to the requirements of -- in terms of height.
- 7 MS. NG: Okay. At Redwood Landfill, there are
- 8 two levees. There is what is deemed -- called the
- 9 interior levee, which surrounds the landfill footprint.
- 10 That is 100 percent completed and is built to a minimum
- 11 height of nine feet above mean sea level.
- 12 The exterior levee is around other portions of
- 13 the landfill that -- excuse me, landfill property --
- 14 that do not surround landfill. That -- portions of
- 15 that is still incomplete.
- One of the speakers earlier mentioned the
- 17 levee -- a levee failure. And that was to the exterior
- 18 levee, a portion of the exterior levee, and no leachate
- 19 escaped from the landfill. And that was deemed because
- 20 not enough time was allowed in between layers, I
- 21 suppose.
- 22 CHAIRPERSON BROWN: Compaction layers.
- MS. NG: Correct. So at this point, the
- 24 landfill levee is complete.
- 25 CHAIRPERSON BROWN: Thank you, Becky.

- 1 DIVISION CHIEF DeBIE: There was some
- 2 testimony relative to state minimum standards not being
- 3 enough. Dry a plan, state minimum standards. These
- 4 are state minimum standards.
- 5 Again, I'll emphasize site-specific permit
- 6 requirements, JTD requirements, joint technical
- 7 document requirements, are designed to impose a higher
- 8 level of requirement and standard for a particular
- 9 site.
- 10 The Board's narrow -- sorry; focus -- focused,
- 11 defined.
- 12 CHAIRPERSON BROWN: Defined.
- 13 DIVISION CHIEF DeBIE: Defined. Thank you,
- 14 that's the term. I'll write that down: Defined.
- 15 (Laughter)
- 16 DIVISION CHIEF DeBIE: The Board's defined --
- 17 CHAIRPERSON BROWN: I don't want to minimize
- 18 our authority here. We have just very focused, defined
- 19 authority.
- 20 DIVISION CHIEF DeBIE: Thank you.
- The Board's defined authority is consistent
- 22 with state minimum standards, so that's our measure.
- 23 Certainly, we take much more into account when
- 24 evaluating these permits as they come in. We are
- 25 active participants in the CEQA process. We do

- 1 basically a peer review of the LEA's work and bring
- 2 that all in to make an assessment on can the facility
- 3 not only meet the state minimum standards but fully
- 4 protect the environment given its situation there.
- 5 So even though the Board has a defined
- 6 responsibility to look at just state minimum standards,
- 7 staff base their recommendation on the full record and
- 8 bring that to the Board as part of their
- 9 recommendation.
- 10 There was a reference to the agenda item and
- 11 one of the subparagraphs that talks about long-term
- 12 impacts in that the statement is that there are no
- 13 long-term impacts.
- 14 My recollection on sort of how our agenda
- 15 items are developed -- it's sort of the template for
- 16 all agenda items that come forward -- and that
- 17 particular area is, I believe, focused on long-term
- impacts relative to the Board's programs, mostly.
- 19 So it was -- there shouldn't be any
- 20 implication that there aren't any long-term impacts
- 21 associated with this project based on that one sentence
- 22 in that one area. There are impacts to air quality,
- 23 and that's part of the record, and that's why there's a
- 24 statement of override relative to that.
- 25 And I think two more is what I have here, and

- 1 then certainly let Becky, if she has additional things.
- The last two I wanted to touch on was, again,
- 3 some of the testimony relative to greenhouse gas.
- 4 Greenhouse gas impact on the dump, and the dump's
- 5 impact on greenhouse gas is what I heard clearly.
- 6 Technically -- I'll have to do that; I'm part
- 7 bureaucrat here -- technically, there is no requirement
- 8 in CEQA to analyze for greenhouse gases. Certainly
- 9 it's on the horizon. The Natural Resources Agency is
- 10 developing guidelines to help state and local entities
- 11 deal with greenhouse gas.
- 12 I think the Lead Agency here, the LEA went
- 13 over and above what we typically see in other Lead
- 14 Agencies in trying to get their hands around greenhouse
- 15 gas. There are no clear parameters out there for Lead
- 16 Agencies to address greenhouse gas.
- 17 I think it's precedent-setting in my opinion
- 18 to link greenhouse gas and capacity expansion. That is
- 19 a huge thing to see in a landfill project, just from a
- 20 personal experience.
- 21 We may see more of those as we get better
- 22 focus on greenhouse gas and how to address that, but I
- 23 think that was a laudable way to try to approach that
- 24 issue. I'm just speaking from a personal point of view
- 25 and my experience on that one.

- 1 So relative to that, I think anything really
- 2 that tries to address greenhouse gas impacts, both from
- 3 the dump on greenhouse gas and vice versa, is a
- 4 significant over and above the typical that we would
- 5 see.
- 6 I'll remind the Board that landfills are
- 7 required to monitor and control landfill gas. Our
- 8 defined focus on is lateral migration, but the Air
- 9 Quality Management District has requirements relative
- 10 to clean water or Clean Air Act to ensure that there
- 11 aren't emissions going up into the atmosphere -- not
- 12 just greenhouse gas, but all emissions.
- 13 So they are our sister agency that is focused
- 14 on that and will require the emissions to be fully
- 15 controlled.
- And then I'll leave my part talking about the
- 17 independent monitor. We had a little discussion with
- 18 the LEA about that and some of the experience that
- 19 staff has had about independent monitors with
- 20 landfills.
- 21 And we were recalling one situation with the
- 22 Altamont Landfill where there's actually an independent
- 23 monitor committee, I believe, in that regard and it's
- 24 separately funded. And it came out of the land use
- 25 requirements, and I think there might have been a

- 1 settlement agreement associated with it.
- 2 So I think this again is precedent-setting
- 3 that an LEA being the Lead Agency came up with the
- 4 strategy and placed it in the permit for an independent
- 5 monitor. It's a big step forward. We don't typically
- 6 see that.
- 7 I think we will ask the LEA to be open to our
- 8 assistance relative to how that monitor might be
- 9 brought on and what kind of criteria the monitor would
- 10 be asked to evaluate.
- 11 There is a lot of work, both state and
- 12 national level, looking at how to evaluate landfills
- 13 and their threat to the environment during their active
- 14 life as well as into the closure/post-closure.
- 15 There are assessment tools, methodologies that
- 16 are developed, and that we're working on too to do
- 17 that, and we'll be passing that information on to the
- 18 LEA so that that independent monitor has all the tools
- 19 and strategies that they need to be effective.
- 20 And I won't put words back into Becky's mouth,
- 21 but I think I heard clearly that the LEA has no intent
- 22 to discontinue that monitor after three years. They're
- 23 just going to evaluate, assess that, and in all
- 24 likelihood expand upon that requirement in three years
- 25 based on their experience.

- 1 It's a new thing. It's a learning curve
- 2 relative to that, and I think the LEA in how they
- 3 structured the permit requirement was trying to grapple
- 4 with a way to come back to that issue and improve upon
- 5 it and address it.
- 6 CHAIRPERSON BROWN: But it is a condition in
- 7 the permit. So the distinction that you made, Mark,
- 8 that I think is important for people to understand is
- 9 that it's part of the permit, not a land use that's an
- 10 optional.
- 11 So the operator and the LEA made it part of
- 12 permit which means it will continue beyond the three
- 13 years. Because three years is only a review process,
- 14 and that's been said before.
- 15 But being a permit condition, as long as the
- 16 permit is in place and the LEA requires the operator,
- 17 it's going to continue. It's not something that just
- 18 goes away after three years. It is part of the permit.
- 19 Correct?
- MS. NG: Yes.
- 21 DIVISION CHIEF DeBIE: Yes.
- 22 CHAIRPERSON BROWN: So as long as there is a
- 23 permit in place, there will be a third-party monitor.
- 24 DIVISION CHIEF DeBIE: I was going to stop
- 25 there, but I'll make one last statement.

- 1 We were taking notes throughout the testimony.
- 2 I was trying to identify anything that would be defined
- 3 as substantial evidence relative to environmental
- 4 issues or public health issues. I was not able to
- 5 identify any technical information, any solid
- 6 information relative to substantial evidence that would
- 7 shift my view of the potential impacts and the
- 8 mitigations relative to this facility and this permit.
- 9 Becky, did you have anything to add?
- 10 MS. NG: I just wanted to add two things.
- I believe Mr. Rogers said that he would like
- 12 to ensure that Redwood Landfill would meet the Marin
- 13 County greenhouse gas goal of, I believe, 25 percent
- 14 below the 1990 levels -- or is it 15 percent below 1990
- 15 levels by 2020. They -- that is in the mitigation
- 16 measure. Redwood Landfill will be required to also
- 17 meet that goal.
- 18 And I'd just like to follow up by saying this
- 19 permit, proposed permit before you, will -- I don't
- 20 know if you want to call it an improvement. I would
- 21 hope that the public would see this as an improvement.
- 22 As Mark mentioned earlier, there were no
- 23 limits on green waste, yard waste used for ADC. Now
- there will be a 300-ton-per-day limit. The sludge or
- 25 biosolids tonnage will be reduced to -- from 1,000 to

- 1 230 tons per day.
- 2 And as he also mentioned, we have the
- 3 inclusion for the independent monitor as well as the
- 4 greenhouse gas to capacity connection, as well as
- 5 clarification on many other items.
- 6 So I think this is a more defined permit.
- 7 Thank you.
- 8 CHAIRPERSON BROWN: Thank you, Becky.
- 9 DIVISION CHIEF DeBIE: So we're available for
- 10 additional questions. The LEA will -- I'll ask Becky
- 11 to stay up here. And again, you heard that the
- 12 operator has technical staff available.
- 13 CHAIRPERSON BROWN: Okay, thank you.
- 14 And I mentioned the defined -- let me just
- 15 clarify -- defined scope of work because it's part of
- 16 the larger state construct of how all of these permits
- 17 and the Local Enforcement Agency operates.
- 18 So the Air Board experts who are experts in
- 19 air quality issues deal with the air emissions issues.
- 20 The Water Quality Board who has water quality
- 21 experts deals with water quality issues.
- 22 And we are all housed in this agency to work
- 23 collaboratively and work with our Local Enforcement
- 24 Agencies.
- 25 So it is part of the state construct process.

- 1 It's not that we have limited authority; we have a very
- 2 defined authority, and we act within our scope of state
- 3 standards and, you know, CEQA, financial assurance, and
- 4 our very defined purpose.
- 5 So I'll ask any Board Members if they have any
- 6 specific questions for Mark or for Becky or -- okay.
- 7 I do. I did want to say, make some quick
- 8 comments.
- 9 One first: Ted, thank you to you, your team,
- 10 Mark, Becky, our partner in our Local Enforcement
- 11 Agency, and Reinhard.
- 12 You and your staff have done everything
- 13 possible in review of this, and it certainly has not
- 14 been cavalier. It's been a very careful, deliberative,
- 15 and thoughtful process. I have to applaud you for
- 16 taking the time and consideration necessary to do that.
- 17 I think anyone who knows this business or the
- 18 process knows the relative degree of scrutiny that this
- 19 facility and every permit receives from this agency.
- 20 And I think that -- and you know our Board and
- 21 our staff are just the latest of many who have reviewed
- 22 this permit application, the operation, and the issues
- 23 with great intensity all the way from the local level
- 24 and the environmental groups that have participated in
- 25 the process all the way up to our staff.

- 1 I think the applicant is working within the
- 2 construct that's been established. And it's a very
- 3 extensive construct that operates from the local level
- 4 all the way up to the state level.
- 5 And there's a set of things that are very
- 6 extensive and very elaborate that they are told that
- 7 they must do in this process.
- 8 And they've done all those things.
- 9 It's been an extensive verification by
- 10 independent reviewers, third-party reviewers, by
- 11 government agencies. It's been vetted in the
- 12 community.
- 13 And everybody looks at the stuff as vigorously
- 14 as we do, and certainly all of you have, in all these
- 15 issues that have been raised in the discourse on this
- 16 particular permit and all permits.
- 17 And I think some of the engineering and design
- 18 features also notably either meet existing standards or
- 19 they exceed the permit requirements. And I think that
- 20 the operator should be applauded for taking the
- 21 mitigated alternative on this permit. It's a
- 22 completely different permit than was done.
- 23 And that was as a result of the participation
- 24 of the local community. So I applaud you for taking
- 25 into considerations what the local community wanted and

- 1 working with them through this process.
- Now I want to say I do sympathize with and
- 3 commend all of those of you who are here, those with
- 4 the Green Coalition and everybody with the City and
- 5 County, who are fighting to move this city and the
- 6 county away from landfilling and to ensure public
- 7 health and safety.
- 8 I mean that's enlightening self-interest in
- 9 itself. And Marin County certainly is a leader in
- 10 moving towards zero waste.
- 11 The Board's aggressively embraced those
- 12 pursuits each and every day. And I think that is our
- 13 greatest authority, is in working with local
- 14 jurisdictions to work towards zero waste, and that is
- 15 the goal of this Board.
- 16 But unfortunately we still find ourselves in
- 17 no man's land where we are moving towards zero waste.
- 18 We heard this morning the statewide average is
- 19 58 percent, and Marin is well above that. But there is
- 20 still no man's land where we still need these
- 21 landfills.
- 22 I think that the operators operate them
- 23 responsibly above what the Board requires, and I think
- 24 that the applicant in this case has fulfilled their
- 25 obligations.

1 And I think that any objective to look at the

- 2 record would show that the degree of review and
- 3 verification at all levels is pretty overwhelming.
- 4 So -- I know that we have reviewed it and reviewed it
- 5 ourselves.
- I know that there's been extensive public
- 7 input, and I applaud the LEA for shepherding that
- 8 process through at the local level.
- 9 So that's all I have to say.
- 10 BOARD MEMBER KUEHL: Thank you, Madam Chair.
- 11 I want to associate my remarks with the Chairwoman's
- 12 remarks.
- 13 There has been a lot of references to the new
- 14 members, and I have to say this is not a new issue or a
- 15 new idea or a new set of statutes for me, and I think
- 16 not for Mr. Laird as well.
- 17 I was Chair of the Natural Resources and Water
- 18 Committee for six years. I was Byron Sher's second on
- 19 the budget subcommittee. We did a lot of conversation
- 20 and quite a bit of legislation about these issues.
- I agree with the Chairwoman. And I intend
- 22 to -- just so you won't wonder, of course -- vote in
- 23 favor of the granting of this permit.
- I think the issues raised by advocates and
- 25 critics -- and I live in Santa Monica; believe me, I

- 1 really understand the value of raising the issues and
- 2 then raising new issues and then re-raising the issues
- 3 and making certain that things are heard.
- I don't know that anyone will ever be
- 5 satisfied, or even partly satisfied, though I think
- 6 raising the issue about the monitoring, there were some
- 7 assurances made.
- 8 I also must say if you mean to meet greenhouse
- 9 gas standards, green waste as alternative daily cover
- 10 is not going to cut it in order to help you meet
- 11 greenhouse gas diminution, so that is probably going to
- 12 just by virtue of its own conflict have to be raised
- 13 again.
- 14 I think this permit has seen a great many
- 15 changes. I was appointed two weeks ago, and frankly
- 16 this is a full-time job. So I've reviewed the
- 17 statutes, reviewed the materials, read every e-mail and
- 18 letter that came in about the issue and went back into
- 19 the materials to look at it.
- 20 I am satisfied today on this, but I do think
- 21 that since we're probably going to be around for a
- 22 while we will be giving much scrutiny and interest to
- 23 this. Because one always remembers one's first meeting
- 24 and the issues raised in that meeting.
- 25 (Laughter)

- 1 BOARD MEMBER KUEHL: Thank you Madam Chair.
- 2 CHAIRPERSON BROWN: Gary.
- 3 BOARD MEMBER PETERSEN: Madam Chair, thank
- 4 you.
- 5 I don't think anyone would disagree with the
- 6 conclusion that this is not a good place for a
- 7 landfill. However, in considering whether to concur
- 8 with or object to this permit or any other permit, our
- 9 Board has specifically defined authority.
- 10 The public petitioned the Local Enforcement
- 11 Agency for hearing on aspects of this permit and is
- 12 asking us to postpone our action for 30 days. That
- 13 makes sense to me; yet there is nothing in the law that
- 14 gives this Board the authority to suspend our process.
- 15 The operator and the public have worked long
- 16 and hard to approve the Redwood Landfill expansion.
- 17 I'd like to acknowledge everyone's efforts to do this
- 18 cooperatively, and every one of these landfills is a
- 19 tough one. And I know it because we've been on both
- 20 sides of this.
- 21 But I'm going to have to support this today.
- 22 CHAIRPERSON BROWN: Rosalie?
- BOARD MEMBER MULE: Thank you, Madam Chair.
- I just want to tag on to the comments of you
- 25 and my other fellow Board Members. I couldn't have

- 1 said it any better.
- 2 A number of issues have been raised, and I
- 3 feel that they have been adequately addressed. We
- 4 addressed them thoroughly at the committee meeting a
- 5 week ago Monday, and then we spent several hours today
- 6 addressing them as well.
- 7 Not to mention the extensive work that our
- 8 staff, the LEA, has gone into this, and not to mention
- 9 the ten-year public process that this permit has gone
- 10 through. The public review was very extensive.
- 11 And as Chair Brown has said and Senator Kuehl,
- 12 thanks in large part to your participation, this permit
- 13 looks a lot different from where it started. And so I
- 14 want to thank all of you, as I did last week, for your
- 15 participation in this process because that's what this
- 16 is about, is to really get the best permit out there
- 17 that's truly going to protect the public health and
- 18 safety.
- 19 So with that, I mean, again, I'm -- just to
- 20 repeat a few things that I stated last week: I feel
- 21 that this permit does in fact increase recycling
- 22 opportunities for the area.
- I was very pleased to see the addition of food
- 24 waste to the composting for this property. I was also
- 25 pleased to see the capture of landfill gas for energy

- 1 recovery rather than flaring it off into the
- 2 atmosphere. And so I think that there is a number of
- 3 provisions in this permit that are really going to help
- 4 make this as good a permit as it could be.
- 5 As far as the third-party independent
- 6 monitoring, we discussed that extensively last week,
- 7 and we were assured by the LEA that you will not
- 8 eliminate this program in three years. And again, I'm
- 9 going to encourage you personally to continue this
- 10 indefinitely.
- 11 And with that, Madam Chair I'm ready to vote
- 12 on this. Thank you.
- 13 CHAIRPERSON BROWN: Okay. Member Laird.
- 14 BOARD MEMBER LAIRD: Thank you. I would just
- 15 associate myself with Ms. Kuehl's comments,
- 16 particularly the part about the first meeting.
- 17 (Laughter)
- 18 BOARD MEMBER LAIRD: And I think the one that
- 19 this hasn't been said, because I think the members did
- 20 a good job of covering it, goes back to my question of
- 21 Mr. Block to try to emphasize that the action of this
- 22 Board does not prejudice the hearing that will be held
- 23 on Friday.
- 24 And there is a reason why that is true. And
- 25 that is, as it was discussed by Board Members, how the

- 1 responsibilities of this Board are clearly defined. It
- 2 is because it was really the Legislature's intent I
- 3 think in 1989 not to mess with local control on the
- 4 basic land use issues here.
- 5 And so while we might complaint about the
- 6 definedness of the authority, it is because the
- 7 substantial authority was granted at the local level.
- 8 And so just by virtue of how the authorities
- 9 were assigned, it should not prejudice the hearing on
- 10 Friday because that is where the authority has been
- 11 assigned to many of the issues that were talked about
- 12 today that are not within our authority.
- 13 And so I thought it's very important to talk
- 14 about that in both lights, in the light of prejudice
- 15 but in the light of the local authority on those issues
- 16 and why it was given that way legislatively.
- 17 So thank you, Madam Chair.
- 18 CHAIRPERSON BROWN: Excellent point, thank
- 19 you.
- Okay. Do I have a motion on this permit?
- 21 BOARD MEMBER MULE: Madam Chair, I'd like to
- 22 move Resolution 2008-194 revised.
- BOARD MEMBER PETERSEN: I'll second that.
- 24 CHAIRPERSON BROWN: It's been moved by Member
- 25 Mule, seconded by Member Petersen. Kristen, can you

- 1 call the roll?
- 2 BOARD SECRETARY GARNER: Kuehl?
- BOARD MEMBER KUEHL: Aye.
- 4 BOARD SECRETARY GARNER: Laird?
- 5 BOARD MEMBER LAIRD: Aye.
- 6 BOARD SECRETARY GARNER: Mule?
- 7 BOARD MEMBER MULE: Aye.
- 8 BOARD SECRETARY GARNER: Petersen?
- 9 BOARD MEMBER PETERSEN: Aye.
- 10 BOARD SECRETARY GARNER: Brown.
- 11 CHAIRPERSON BROWN: Aye. The resolution
- 12 passes, and I thank all of you for being here and your
- 13 participation. Becky, thank you.
- I think we'll take a two-minute break to allow
- 15 the panel to stand up and stretch their legs and move
- 16 and the next group to come up so -- and anybody who is
- 17 not staying for the next item, thank you very much.
- 18 (Recess)
- 19 CHAIRPERSON BROWN: Okay. You ready, Howard?
- 20 I think we're being kicked out of this room in about
- 21 ten minutes, so we'll hold the roll.
- 22 DEPUTY DIRECTOR LEVENSON: I'll try to be
- 23 mercifully brief.
- 24 CHAIRPERSON BROWN: Mercifully brief? Just be
- 25 interestingly brief.

- 1 DEPUTY DIRECTOR LEVENSON: Thank you.
- We just spent a number of hours looking at a
- 3 local issue. Now we'd like to turn to a statewide and
- 4 national issue of some import to all of our
- 5 jurisdictions and businesses, and that's the impacts
- 6 that we've seen on recycled materials markets over the
- 7 last couple of months where we've seen a very steep
- 8 decrease in prices.
- 9 And if I can have that -- oops. Went too
- 10 fast. There we go. I will try to be brief.
- 11 Last month Executive Director Leary discussed
- 12 this issue and in particular noted that the Board was
- 13 developing guidance to LEAs on storage issues and
- 14 potential avenues for providing temporary regulatory
- 15 relief.
- 16 And that guidance was issued by our Waste
- 17 Compliance and Mitigation Program, Ted's shop, on
- 18 November 25th.
- 19 That certainly was a very quick response to
- 20 the issues raised about storage, but there are many
- 21 other issues relative to what's the impact on diversion
- 22 and the viability of our whole collection and recycling
- 23 infrastructure.
- So last week, as you know, we had a panel.
- 25 Want to thank Mr. Petersen for putting that panel

- 1 together and having that at the Market Development
- 2 Committee. And today what I'd like to do is very
- 3 quickly summarize the suggestions and briefly indicate
- 4 some of the things that we're already doing to address
- 5 some of those issues.
- Just to remind us, this is just one of the
- 7 charts that was shown last week. It shows the cyclical
- 8 nature of prices and how quickly they've dropped in the
- 9 last few months. There was another slide of the same
- 10 nature.
- 11 And then to my right Brenda Smith, our
- 12 Division Chief for the Statewide Technical and
- 13 Analytical Resources Division and Brian Larimore,
- 14 technical senior in the division, did a quick survey of
- 15 jurisdictions, recyclers, LEAs.
- 16 And we have a lot more information, but one of
- 17 the things that they did highlight was that a lot of
- 18 baled material is now being stored.
- 19 And this slide just is one of the responses to
- 20 the survey. It shows that roughly half of the
- 21 respondents have indicated that storage volumes have
- 22 increased in the last couple of months.
- Others are reporting that storage capacity is
- 24 down to few weeks, and of course some have reported
- 25 even having to landfill some materials.

- 1 Where they've had to go and seek additional
- 2 warehouse space, that's been a problem, and it
- 3 certainly is an additional cost center at the same time
- 4 that prices are declining.
- 5 Now there is a matrix that all the Board
- 6 Members have that summarizes the suggestions we got
- 7 from the panel last week. It's available to the public
- 8 in the back.
- 9 We tried to break down the suggestions into
- 10 three primary categories, and I'm just going to briefly
- 11 go through each of these: The regulations, market
- 12 development, and local government.
- In the regulations area, there were four main
- 14 areas of suggestion, as shown on this slide. The first
- 15 group, which is changing CIWMB regulations, contained a
- 16 wide variety of suggestions including allowing more
- 17 onsite storage, making permit amendments and temporary
- 18 waivers easier, clarifying regulations for alternative
- 19 technologies, and changing what we call the three-part
- 20 test which determines what needs a permit and what
- 21 doesn't need a permit. As I mentioned --
- 22 CHAIRPERSON BROWN: Isn't that part of our
- 23 regulatory calendar?
- 24 DEPUTY DIRECTOR LEVENSON: Yes, it is.
- 25 CHAIRPERSON BROWN: Okay. Thank you.

- 1 DEPUTY DIRECTOR LEVENSON: Last month, as I
- 2 mentioned, the Board issued specific guidance on
- 3 temporary permits and adjustments to operating
- 4 documents -- temporary waivers.
- 5 And as the matrix indicated and as the Chair
- 6 just said, we already have work going on -- that's
- 7 okay, you were way ahead -- on potential changes to
- 8 regulations regarding alternative technologies and the
- 9 three-part test. And that's part of our ongoing
- 10 strategic directive work, Strategic Directive 8.
- 11 Multi-agency permit streamlining was another
- 12 major suggestion, and that's something that we and
- 13 other agencies have discussed for years. It's -- we've
- 14 tried in various ways to implement it, and it's kind of
- 15 the Holy Grail of permitting.
- 16 It's exceedingly difficult, but it clearly
- 17 needs a lot more high-level involvement of Board
- 18 members, agency -- and our sister agencies in order to
- 19 effectuate that.
- There were many, many suggestions on market
- 21 development. I've got just a couple of slides here
- 22 with the main categories. I'm not going to go over all
- 23 our activities that are listed on the matrix, but I do
- 24 want to highlight a couple.
- 25 First of all, we did hear suggestions about

- 1 minimum content requirements and advance disposal fees.
- 2 And as noted on the matrix, these kinds of
- 3 ideas, particularly advance disposal fees on packaging
- 4 or on products, is really something that could be
- 5 addressed through our ongoing initiative on Extended
- 6 Producer Responsibility which I mentioned earlier this
- 7 morning.
- 8 It's been one of our priorities, strategic
- 9 directives, and the Board adopted an EPA framework
- 10 earlier this year, and of course we need statutory
- 11 authority to implement it.
- 12 With respect to climate change, Brenda and her
- 13 shop have been doing yeoman's work on that. We -- one
- 14 of the many things that we're involved in is
- 15 participating in the Western Climate Initiative
- 16 subcommittees on offsets as well as discussing cap and
- 17 trade and offsets in the ARB scoping plans.
- 18 So we are involved in those discussions; there
- 19 may be some avenues we can pursue there.
- 20 In terms of RMDZ, Recycling Market Development
- 21 Zones, which the Board has thirty-three at this time,
- 22 we have -- as old Board Members know, but for our new
- 23 Board Members, we have ramped up our efforts in the
- 24 last year -- Pardon me.
- 25 BOARD MEMBER LAIRD: Longer-serving.

- 1 CHAIRPERSON BROWN: Thank you, John.
- 2 DEPUTY DIRECTOR LEVENSON: Oh, boy. How will
- 3 I ever dig myself out of that one?
- In the last year, we've ramped up our RMDZ
- 5 program. We will be working with the Zone
- 6 Administrators to enhance permitting assistance and
- 7 financing assistance.
- 8 We have a -- what we call zone works training.
- 9 It's a workshop with the Zone Administrators. The next
- 10 one is in February, and we will discuss permitting
- 11 assistance.
- 12 The following one in June, we will discuss
- 13 financing assistance as well.
- 14 And then for those in the audience who are
- 15 interested, we have received the Board's direction to
- open up a new designation cycle for new zones. We'll
- 17 be coming to the Board to make that formal -- get your
- 18 formal determination of that in March, and then that
- 19 process will ensue.
- 20 As far as existing California mills, we're
- 21 going to hear about that next month. We're going to
- 22 have another panel at the Market Development Committee,
- 23 and we'll hear more suggestions, specifically about how
- 24 we can assist existing mills to stay here in California
- 25 as well as hopefully attract some new mini-mills or

- 1 other scrap mills.
- 2 The next big group of suggestions was about
- 3 alternative fuel and energy infrastructure. We have
- 4 been working on this for years with various research
- 5 and development projects, technical analyses of the
- 6 different processes, the Chair's involvement in the
- 7 interagency biomass working group, our anaerobic
- 8 digestion measures in the AB 32 scoping plan, and also
- 9 working with the Energy Commission on what types of
- 10 technologies qualify for renewable portfolio standard
- 11 credits.
- 12 So we've been involved in a lot of different
- 13 areas. As you all know, the -- this is an area that's
- 14 fraught with some political land mines relative to
- 15 conversion technologies and some of the
- 16 high-temperature processes.
- 17 And of course siting is difficult, and
- 18 economics are questionable in many of these cases.
- 19 But I think it is safe to say that if some of
- 20 these technologies could be sited in California and use
- 21 some of our materials locally to produce fuel and
- 22 energy, it would expand our infrastructure and offer
- 23 yet another way of using these collected materials.
- 24 A few folks mentioned -- going to the third
- 25 bullet there -- monitoring exports and establishing

- 1 contacts with China. And so if the Board wants to
- 2 direct me to take a trip to China I'll put in an
- 3 out-of-country travel request.
- 4 CHAIRPERSON BROWN: Nice try Howard.
- 5 (Laughter)
- 6 DEPUTY DIRECTOR LEVENSON: Okay. Easier said
- 7 than done.
- 8 This is certainly something we can try.
- 9 Usually these are things that have to be done through
- 10 sort of the trade and commerce, which we don't have
- 11 anymore, or the international trade administration
- 12 federally.
- We can try and track that kind of information,
- 14 but it is difficult. And I think we had brokers who go
- 15 there on a regular basis and have the best information.
- 16 We'll try to continue to work with them to get that.
- 17 BOARD MEMBER MULE: Howard, one of our
- 18 panelists, Jim Fagelson, has offered his assistance to
- 19 you and your staff on an as-needed basis, so -- free of
- 20 charge by the way -- so I would highly recommend you
- 21 take advantage of his 35-plus years of experience.
- 22 DEPUTY DIRECTOR LEVENSON: Maybe we can set up
- 23 some regular meetings with him.
- BOARD MEMBER MULE: He's happy to.
- 25 CHAIRPERSON BROWN: The other one that occurs

- 1 to me -- and Mark, we can facilitate this -- Secretary
- 2 Adams has an advisor named Margaret Kim who is her
- 3 advisor on China relations, most closely associated
- 4 with climate initiatives in China.
- 5 But she's very well connected and the
- 6 Secretary's advisor for a good reason. So I'm sure we
- 7 can utilize her to gather information directly on, you
- 8 know, China and what's going on in China.
- 9 BOARD MEMBER MULE: And I'm sure she has quite
- 10 a few contacts there.
- 11 BOARD MEMBER PETERSEN: I'd also like to make
- 12 a suggestion.
- 13 We have major dealers and major scrap metal
- 14 dealers in this country that make regular trips. It's
- 15 not just China. It's Indonesia, it's India, it's all
- 16 those places.
- 17 Our process with our Board is to maybe hook up
- 18 with these guys and work with them on what's going on
- 19 over there and keep in touch.
- 20 An advisory -- we have been talking about
- 21 doing this -- is a senior advisory group on market
- 22 development and market sustainability for this Board.
- We need to do that.
- 24 And I think that we can draw upon this new
- 25 administration and some of the people that are going to

- 1 be working there whom we know that might be able to
- 2 help us with some of this.
- 3 Because this is a billion-dollar deal here.
- 4 Billions and billions of dollars are at stake. And
- 5 that's why I think that we're going to have to use all
- 6 of our resources.
- 7 CHAIRPERSON BROWN: Okay.
- 8 DEPUTY DIRECTOR LEVENSON: Thank you. Those
- 9 are great ideas, and I think we can start following up
- 10 on those next month or in the next few weeks.
- 11 CHAIRPERSON BROWN: In your free time.
- 12 (Laughter)
- BOARD MEMBER PETERSEN: After your nap.
- 14 DEPUTY DIRECTOR LEVENSON: Yeah.
- 15 The next big group of suggestions relative to
- 16 market development were financial incentives, and there
- 17 were many, many different ideas here.
- 18 A lot of those would require statutory changes
- 19 or increases in landfill tipping fees. But certainly
- 20 this is an area we need to explore.
- 21 And last week at the Sustainability Committee,
- 22 we talked about economic incentives relative to
- 23 organics, getting organics out of landfills.
- 24 And the Committee asked us to -- well, we
- 25 indicated we were going to have spring workshops on

- 1 financial incentives. The Committee asked us to go
- 2 ahead and meet with stakeholders earlier to talk about
- 3 potential financial incentives, which we intend to do.
- 4 And I don't see any reason why we can't just expand
- 5 that.
- 6 Perhaps that becomes in part the expert group,
- 7 although we need to bring in some other folks as well.
- 8 So we have early consultation, frequent
- 9 consultation, with a variety of stakeholders relative
- 10 to both market trends and potentially economic
- 11 incentives, ultimately hopefully coming back to the
- 12 Board later this year with specific proposals. They
- 13 may require legislative change or they could be policy
- 14 changes to stimulate those markets.
- 15 There were a number of recommendations about
- 16 e-waste that would require statutory change. And then
- 17 there were a few more suggestions that, for want of a
- 18 better term, we grouped into a category just called
- 19 local government issues.
- 20 One was to provide flexibility on diversion
- 21 requirements and, as you heard at the very beginning of
- 22 this Board meeting when Cara talked about the
- 23 58 percent diversion rate -- by the way, I found out it
- 24 was Cara's birthday today. I don't know if that was
- 25 your present to her.

196 1 (Laughter) 2 CHAIRPERSON BROWN: Cat's out of the bag. 3 BOARD MEMBER LAIRD: We're having a big party 4 in about ten minutes. 5 CHAIRPERSON BROWN: Let's have a party for 6 Cara. 7 (Laughter) 8 DEPUTY DIRECTOR LEVENSON: I think that's a great idea. 9 We do have the ability to deal with this kind 10 11 of issue through our good-faith effort determinations. And so we may need to put out some guidance 12 13 now to jurisdictions as to what they'll have to 14 document so that three or four years from now when 15 we're reviewing them and they have a decrease in their -- an increase in disposal due to these commodity 16 17 drops, how do they show that three or four years after 18 the fact? 19 So we can get some guidance out to them very quickly on that subject. 20 21 I think lastly there were suggestions related to franchise agreements that came up several times. In 22 23 reality these -- the changes that were suggested are 24 not feasible due to existing Supreme Court decisions

about those particular ideas.

- 1 That's a very quick run-through, in the
- 2 interests of time. Just thought I wanted to highlight
- 3 some of the main things that we heard. And you can see
- 4 on the matrix a number of different things that are
- 5 going on.
- 6 We certainly will follow up and institute a
- 7 kind of a working group. Eager to hear any of your
- 8 other suggestions.
- 9 And again, next month, we'll have another
- 10 panel. We will provide a broad overview agenda item
- 11 that sort of summarizes this matrix again so we have
- 12 another opportunity for discussion in early January.
- 13 With that, we'd be happy to answer any
- 14 questions.
- 15 CHAIRPERSON BROWN: Thank you, Howard. We
- 16 have a couple of speakers.
- 17 First, Evan Edgar. You're up first.
- 18 MR. EDGAR: Chair, Board Members. I'm Evan
- 19 Edgar, California Refuse Recycling Council.
- 20 We welcome the Senator and Assemblyman to the
- 21 Waste Board. As over at the Capitol, you'll probably
- 22 see Kelly Astor and Josh Pane. They're part of the
- 23 California Refuse Recycling team over there.
- 24 And in the crowd is George Eowan. He'll be
- 25 speaking next. So welcome to the Waste Board.

- 1 We liked the Waste Board with the panel
- 2 discussion. It was an open process. As Dennis
- 3 Kazarian stated last week, by having an open full-time
- 4 Board, we're able to have timely and responsive
- 5 discussions.
- 6 So we laud the Waste Board on that; and since
- 7 for the last 18 years we've been supporting a full-time
- 8 Board, with this open process it's been transparent, as
- 9 we saw today.
- 10 With regards to the market panel, we look
- 11 forward to participating each and every month with
- 12 regards to the stakeholder process. There's a lot
- 13 going on there with on a global market crisis. But we
- 14 see it as a domestic market opportunity.
- 15 You look at what the President-elect Obama is
- 16 suggesting for the nation, \$150 billion, 5 million
- 17 green-collar jobs over the next ten years.
- 18 Last Thursday, the Governor and the CARB
- 19 adopted the AB 32 scoping plan which is laced with RPS,
- 20 renewable power, low-carbon fuels, energy efficiency,
- 21 and mandated commercial recycling.
- 22 And the reason I mentioned the AB 32 scoping
- 23 plan and the Obama plan is because it is a green
- 24 stimulus market development plan for California, to
- 25 develop domestic markets, domestic energy for energy

- 1 independence, and we have the waste byproducts to do
- 2 that, to make low-carbon fuels and to make green
- 3 energy.
- 4 As part of the mandated commercial scoping
- 5 plan that we have there, the Waste Board has authority
- 6 for the next two years to develop tools on how to
- 7 mandate commercial recycling.
- 8 I believe Senator Kuehl's bill did C&D back in
- 9 the year 2000 which had a hundred ordinances. And
- 10 today we represent 50 C&D MRFs, and we have a very
- 11 successful C&D program in the State of California
- 12 because of that bill that you sponsored back in year
- 13 2000.
- On commercial waste, the next two years, we do
- 15 have a lot of opportunity plus we have a study
- 16 underway. Last month, the Waste Board adopted \$300,000
- 17 study to look at commercial waste recycling.
- 18 Today Dr. Levenson and I talked about that and
- 19 how that program was scoped up to be voluntary, but now
- 20 it's going to be mandatory. So we have to take another
- 21 look at that.
- But as part of that, the tools we need to
- 23 develop are domestic markets. If we're going to be
- 24 expanding into the commercial waste stream even more --
- 25 and we've been very supportive of conditional

1 commercial waste recycling. With the Padilla Bill last

- 2 year, we were supportive of conditional commercial
- 3 waste recycling.
- 4 So any type of tools we need at the Waste
- 5 Board as you develop the regulations for the next two
- 6 years, got to have a market development component.
- 7 And as Mr. Levenson mentioned, alternative
- 8 energy. Conversion technologies. Looking at ways to
- 9 make green energy through anaerobic digestion and other
- 10 types of conversion technologies to make green energy
- 11 out of the some of the lower-end organics and stuff.
- 12 So we support that.
- 13 Another aspect the Waste Board has going on
- 14 that was adopted was a \$900,000 study by R.W. Beck that
- 15 was put on suspension during the budget crisis. Now
- 16 it's back on board. And that \$900,000 study looks at
- 17 different changes in technology, different domestic
- 18 markets.
- 19 And as the stakeholder process rolls out
- 20 there, there's a great resource and opportunity to look
- 21 at that \$900,000 study to look at global market impacts
- 22 and developing domestic markets and the infrastructure
- 23 needed to get there.
- 24 So we have a lot of opportunity over the next
- 25 year. We have \$1.2 million in studies. We have a

- 1 stakeholder process ready to go with a lot of good
- 2 ideas, and you have a open and transparent process and
- 3 we're going to be available to work with your staff.
- 4 And what you heard today are great issues, and
- 5 we're going to support a lot of those within the
- 6 stakeholder process.
- 7 Thank you. And welcome to the Waste Board.
- 8 CHAIRPERSON BROWN: We're going to have to put
- 9 you out front as the greeting committee, Evan.
- 10 BOARD MEMBER PETERSEN: Evan, you're drafted.
- 11 CHAIRPERSON BROWN: I don't know what you left
- 12 for George to talk about. But George Eowan, you're
- 13 next.
- MR. EOWAN: Good afternoon. George Eowan,
- 15 California Refuse Recycling Council. Pleasure to meet
- 16 you both.
- 17 First of all, I want to thank Mr. Petersen and
- 18 the staff and the Board in general for the panel we had
- 19 last week and putting that together really, really
- 20 fast.
- I mean, about six or eight weeks ago we
- 22 encountered a serious problem. It was a wake-up call.
- 23 For the last 18 years, we have done a remarkable job in
- 24 California of building an infrastructure to divert
- 25 waste. Our companies -- about a hundred of them in

- 1 this state -- are really majorly involved doing that
- 2 work. About 200 MRFs in the state, and we own a
- 3 majority of those.
- 4 What we haven't done a good job of is finding
- 5 out where to take the material once we have processed
- 6 it and gotten it ready for markets.
- 7 And the wake-up call was that when China turns
- 8 off or closes the gate, so to speak, we're stuck. And
- 9 our companies around the state are storing this
- 10 material, they are selling it at incredibly reduced
- 11 prices, and it's akin to being dependent on foreign oil
- 12 for our oil.
- 13 And we have to come up with both short-term
- 14 solutions to this problem -- and you've done a good job
- on the permits and on the waivers. I think there's a
- 16 couple more things we need look at on the short-term
- 17 basis.
- 18 But on the long-term basis, there is a lot of
- 19 work to be done. And I do want to volunteer the folks
- 20 that we work with on the market side, the professional
- 21 marketeers, to help work with Howard and his staff.
- I just want to say that we really have to
- 23 focus on that. If there's seven -- what we learned in
- 24 the meeting last week was that seven mills have closed
- 25 since '02. So we've done a great job building MRFs and

- 1 all of that. We've done a terrible job keeping these
- 2 market processing, producing mills in place here. So
- 3 we've got to really take a look at that.
- 4 I don't know if that means building new mills.
- 5 That's probably not in the cards. We have to look, as
- 6 Evan mentioned, at alternative technologies.
- 7 I would really like to see the Board take a
- 8 proactive role in building a scientific basis for this.
- 9 There's a lot of information out there. When I've gone
- 10 to Europe and seen facilities, and in Japan, there is
- 11 just a -- and I know you've worked on that in the past,
- 12 but we've really got to take a proactive role on this.
- 13 Anaerobic is definitely one area. But there
- 14 are a lot of other technologies that need to be
- 15 evaluated so that information is provided to the
- 16 Legislature so they can make a reasoned decision on
- 17 this rather than an emotional one.
- 18 And it's really, really important. Otherwise,
- 19 I don't know how far along we're going to be able to go
- 20 beyond -- if we're at 50 percent today, if we're going
- 21 to be able to go any further.
- 22 So I look forward to working with you in the
- 23 coming months on this and solving some of the these
- 24 long-term problems the best we can.
- Thank you.

- 1 CHAIRPERSON BROWN: Thank you, George.
- I think I was going to ask Mark what the
- 3 result of our research technology center -- sort of
- 4 science-based we had talked about,
- 5 BOARD MEMBER MULE: Actually, Howard might be
- 6 able to update us on where we are with our research
- 7 initiative.
- 8 DEPUTY DIRECTOR LEVENSON: I don't remember
- 9 exactly when; it was early this year. The Board did
- 10 adopt a research model that was one of our strategic
- 11 directives. And it was designed to provide a
- 12 systematic basis for determining research needs and
- 13 priorities.
- 14 The problem was that in order to really make
- 15 it function we would need a dedicated funding source.
- 16 We estimated about, as I recall, about \$2 million a
- 17 year, I think, of kind of research-dedicated funding
- 18 and a couple of additional staff to run that.
- 19 So at this point we do our research using what
- 20 we call discretionary contracting and professional
- 21 services dollars. That's -- comes from our Integrated
- 22 Waste Management account. It varies from year to year.
- 23 We never know whether we'll have any or a couple
- 24 million dollars. So that's something that we can
- 25 keep -- take a look at again.

- 1 CHAIRPERSON BROWN: Well, and it occurs to me
- 2 that there's so much research that's already out there.
- 3 You know, our contracting and the process for getting
- 4 the information that's already out there is, you
- 5 know --
- 6 DEPUTY DIRECTOR LEVENSON: We have a lot of
- 7 information.
- 8 CHAIRPERSON BROWN: It's old information by
- 9 the time we issue the contract and start looking. I
- 10 wonder -- and looks like Brenda's probably looked at --
- 11 about ready to do this.
- 12 But you know, just gathering the information
- 13 or the people at the level we want to do sort of a
- 14 peer-review type collection of data and information
- 15 that's out there.
- DEPUTY DIRECTOR LEVENSON: We've done a lot of
- 17 that. We had our AB 2770 study that went to the
- 18 Legislature on conversion technologies.
- 19 We continued to update that information with
- 20 Brenda's shop and Fernando Berton, and we have a
- 21 variety of demonstration projects that are gathering
- 22 emissions data and looking at operational issues.
- 23 So I think that the Board has taken a very
- 24 strong position -- has positioned itself very strongly
- 25 to continue that work.

1 As you know, part of the problems are some of

- 2 the definitions in the legislation and the very -- the
- 3 controversies about whether those kinds of facilities
- 4 ought to be sited and whether they should count for
- 5 diversion credit or not, so.
- 6 CHAIRPERSON BROWN: Well, and now that we have
- 7 1016 there's no longer an issue of diversion because
- 8 we're now in a disposal reduction mode anyway.
- 9 DEPUTY DIRECTOR LEVENSON: Right.
- 10 CHAIRPERSON BROWN: And the siting issues, as
- 11 Assemblyman Laird mentioned earlier, are local siting
- 12 land-use issues.
- But I think as we launch into these new areas,
- 14 we are going to be called upon by the Legislature for
- 15 science-based information so we get back to what George
- 16 had mentioned, which is science and fact information.
- 17 Let the Legislature make the determinations
- 18 regarding definitions and what kind of technology, but
- 19 I think everybody's looking to new green jobs, green
- 20 technology. So we need to be able to have the
- 21 scientific data to support and to lend to that process.
- MR. RAUH: If I might just add one comment to
- 23 that. Under 8.4, the regulatory review items that are
- 24 listed on that matrix, one of the things that you've
- 25 directed us to do is to search out and bring in the

- 1 science basis for any regulatory changes.
- 2 So we are looking at anaerobic and other types
- 3 of innovative technology as part of that, as well as
- 4 the three-part test which will be also a science-based
- 5 assessment.
- 6 We're actually not only looking across the
- 7 country but we're looking across the world at how
- 8 people are basically trying to evaluate and regulate
- 9 where appropriate these types of facilities.
- 10 CHAIRPERSON BROWN: Okay. Thank you, Ted.
- 11 Brenda.
- MS. SMITH: Yes, I had a comment. Brenda
- 13 Smith with the Sustainability Program.
- 14 And as Howard and Ted have both mentioned, a
- 15 lot of our contracts start out with literature
- 16 research, looking at the gaps in the research. But
- 17 also buried in the details of our organics roadmap is
- 18 what we are calling the organics clearinghouse.
- 19 And that came out of the sort of siting and
- 20 capacity workshops that the Compliance Program hosted
- 21 and was supported by a broad -- members of our staff.
- 22 And the organics clearinghouse is designed to
- 23 have several modules within it that will support and
- 24 document not only our research but certainly external
- 25 research that we have.

- Our first module in that clearinghouse is
- 2 conversion technologies, and we have staff that have
- 3 been working on that module now, and we are hoping to
- 4 use another new tool, Share Point, from our IMB folks
- 5 to feature that module.
- 6 So in the near future you should be seeing our
- 7 first module. Subsequent modules would be composting.
- 8 Of course, the CT module will contain all the different
- 9 types of technologies in there, but other organics
- 10 alternatives will be featured in future modules as
- 11 well.
- 12 BOARD MEMBER PETERSEN: Great, Brenda. Good
- 13 stuff. Madam Chair? I just to want remind everybody,
- 14 we brought these people up to the panel last week.
- 15 These are experts. These people live and breathe this
- 16 stuff 24/7.
- 17 We're going to be bringing some other people
- 18 up here in January on these mills, that operate these
- 19 mills, old friends of ours who will shoot straight with
- 20 us about what's going on.
- 21 So I understand we need to do all this. But
- 22 the -- for me, the emergency is now. And for me,
- 23 bringing the talent to the table. We know who these
- 24 people are. The EPR stuff. Where do we go to get the
- 25 end product users to start using this stuff.

- 1 McDonald's, for example; their 23 percent
- 2 recycled content in their paper products? Well, that
- 3 could be 70 percent. Would that help boost the
- 4 domestic market for the use of high-grade paper? You
- 5 bet it would.
- 6 So I'm seeing that we need to draw upon the
- 7 talent that's going to come to the table. Pick their
- 8 brains. Set up separate meetings. Let's ask them to
- 9 help us. They will be there.
- 10 BOARD MEMBER MULE: And if I could just add:
- 11 They want to help us. They were up here. They offered
- 12 some testimony on the state of the markets.
- 13 And after that panel discussion, I had at
- 14 least two of them, Jim being one, come up to me and say
- 15 I'm happy to help you. I'm happy to work with your
- 16 staff.
- 17 So again, Gary and I can't stress enough,
- 18 these folks to want work with us; and I think that we
- 19 should take advantage of their expertise and again get
- 20 some information. We can get it now. We don't need to
- 21 wait for a contract or anything like that.
- 22 All you got to do is -- you know, we can get a
- 23 lot of information on the current state of markets, and
- 24 where they're going, and what some companies are doing
- 25 to -- for example, Wal-Mart's greening their supply

1 chain. Not only to use recycled content products, but

- 2 they're demanding their suppliers provide recycled
- 3 content products and recycled content packaging.
- 4 So when you've got the world's largest
- 5 retailer out there, they're the ones that are going to
- 6 help shape the market for us.
- 7 And so, again, I just strongly urge you to
- 8 work with -- reach out to them. They're reaching out
- 9 to us. And again anything that we can do to help
- 10 facilitate that, we're happy to do so.
- 11 BOARD MEMBER KUEHL: Thank you, Madam Chair.
- 12 It seems to me also across the board, though,
- 13 what we're hearing is that the short-term solutions are
- 14 primarily going to be up to us in terms of allowing
- 15 things like more storage and a little loosening because
- 16 people can't actually get rid of the things that they
- 17 have been collecting for us.
- 18 The additional short-term solution of one kind
- 19 of industry or one commercial enterprise who might be
- 20 cooperative I think is worth pursuing.
- 21 The major problem it seems to me we're having
- 22 and probably will have over at least next 12 months is
- 23 that because of the economic situation people are just
- 24 not buying stuff as much as they were buying.
- That's what China's been sort of complaining

- 1 about is that we turned it into packaging materials,
- but nobody's buying packages, and therefore they don't
- 3 need any packaging materials.
- 4 Is there an international exchange of some
- 5 kind around these sorts of materials? Or is it all
- 6 kind of one business to one business.
- 7 BOARD MEMBER PETERSEN: No. Not that I know
- 8 of. And the issue here is, on the secondary materials,
- 9 when the markets start to soften up most of the
- 10 providers will use their primary supply, which is the
- 11 virgin materials, over the secondary materials.
- 12 They're the first ones to hit the road. They
- 13 say we aren't going to take this stuff. That's part of
- 14 the problem.
- BOARD MEMBER KUEHL: Right.
- 16 BOARD MEMBER PETERSEN: And then the buyers --
- 17 CHAIRPERSON BROWN: It's commodity brokers
- 18 that broker the material on the open market.
- 19 BOARD MEMBER PETERSEN: Right but --
- 20 BOARD MEMBER KUEHL: Internationally?
- 21 BOARD MEMBER PETERSEN: Oh, sure. That
- 22 happens, yes. I mean, they're all over the world
- 23 buying and selling stuff.
- 24 BOARD MEMBER KUEHL: Thank you, Madam Chair.
- 25 CHAIRPERSON BROWN: Arthur had wanted to

- 1 participate in that discussion, and he actually is the
- 2 next one to testify. So you might be able to answer
- 3 Senator Kuehl's question.
- 4 MR. BOONE: Arthur Boone, again, of the
- 5 Northern California Recycling Association.
- 6 When I got into the business in '83, what they
- 7 told me was that the major, the basic industries in
- 8 this country -- the paper industry, the glass industry,
- 9 the metal industry -- all these people basically use
- 10 scrap to fill in the peaks and valleys of demand so
- 11 that when the economy heated up, they bought more
- 12 scrap, and they mixed it in with their virgin
- 13 resources, and that went to market.
- 14 They didn't want to interfere with the
- 15 long-term relationships they had with their virgin
- 16 suppliers. They didn't want to have more people out in
- 17 the woods cutting down trees because you got to find
- 18 guys that know how to do that, blah blah. All these
- 19 problems.
- 20 So scrap was easy.
- 21 What we don't know today is whether that has
- 22 changed at all. My sense is -- and Gary, I think, is
- 23 saying this -- it hasn't.
- 24 And so we're still basically -- we now have
- 25 programs subsidized by, nationwide, probably 175

- 1 million people to collect materials, and they're going
- 2 to get stuck with it. Because that's what curbside,
- 3 which is the level of service in this country, is.
- 4 So the first thing I think we have to do, we
- 5 have to find out what has basic industry in this
- 6 country really changed its purchase -- materials
- 7 purchasing practices.
- 8 And when the State of Oregon and the State of
- 9 Florida tried to get these numbers, they found it very
- 10 difficult. The people you talk to are the brokers.
- 11 They're trying to sell to these guys. But we're not
- 12 talking to the purchasing agents for International
- 13 Paper, Weyerhaeuser, all that kind of stuff.
- 14 And that's really the kind of data we need.
- 15 Because the question is, we've changed the supply by
- 16 subsidizing it, but we haven't changed the demand yet.
- 17 And they're going to fight us on it because
- 18 they don't want -- they don't want you to know; it's
- 19 not your business. But that's what I think we
- 20 really -- it's a really important thing we have to get
- 21 to.
- That's the first thing I'd like to say.
- I have one other quick point. When I was a
- 24 kid, my parents got Life Magazine. And I read Life
- 25 Magazine all through the Second World War, saw people

- 1 dead on the beaches and things like that. It was very
- 2 insightful.
- When I was about 10 or 12 years old, I
- 4 remember seeing all these pictures of grain silos. We
- 5 don't think about those today. But in the late '40s
- 6 and all through the '50s, we had these agricultural
- 7 surpluses in the country because farmers knew how to
- 8 grow it, but they didn't know how to market it. And it
- 9 took us about 15 years to figure out how to manage all
- 10 of that.
- 11 When's the last time you heard about people
- 12 plowing crops under? Does anybody do that in this
- 13 country anymore? No. Because we figured out how to do
- 14 that.
- I believe -- it's really interesting with all
- 16 this collection of material. Nobody's saying, oh,
- 17 let's go take it to the landfill. Nobody's saying
- 18 that. Everybody's saying these aggregated and
- 19 separated materials are resources.
- 20 And now we have to figure out how to manage
- 21 them. I believe it's a national challenge. I believe
- 22 it's going to have some of the same kind of thing --
- 23 connections that agriculture subsidies and all that
- 24 kind of stuff.
- 25 Whether we can get the people in Georgia and

- 1 Maine and stuff like that to play ball with us, whether
- 2 we can do it on our own, I don't know. But I think
- 3 ultimately what we're coming to realize is that
- 4 materials that have been separated from the waste
- 5 stream are resources.
- 6 They're valuable. They should be protected.
- 7 And the vagaries of the market somehow have to be
- 8 adjusted and managed.
- 9 So -- but I think we need to look -- I'd love
- 10 to see somebody -- Howard, some smart guy who
- 11 understands the history of how agricultural subsidies
- 12 developed and how that worked out. I'd like to see
- 13 them work over just a sort of a three- or four-page
- 14 summary of how that policy and program developed.
- 15 There's a lot of graft and corruption and all
- 16 that -- Billie Sol Estes -- but ultimately, we didn't
- 17 plow the crops under, and a lot of poor people got to
- 18 eat, lot of nice things happened. So we have to work
- 19 on it.
- Thank you.
- 21 CHAIRPERSON BROWN: Okay. Mr. Boone, thank
- 22 you very much. Appreciate you being here.
- 23 And Brian, Brenda, Howard, Ted, Elliot --
- 24 everybody who is left. Our court reporter, thank you.
- 25 And all the staff. We've gone well beyond what we had

216 anticipated, but with good reason and good outcome. 1 2 We had anticipated going into closed session. 3 We will postpone that until January. It was not 4 time-sensitive, so we will postpone closed session 5 until January. 6 We need to vacate or -- actually, all of you 7 can help us reset this room for the next event. 8 And we don't have her here, but we have 9 invited Member Peace up, former Member Peace. We would 10 like to give her a proper send-off and thank her, and we'll do that after we reset the room at the beginning 11 of our next event. 12 13 So thank you all for being here and for your 14 participation. 15 (Thereupon the CALIFORNIA INTEGRATED 16 WASTE MANAGEMENT BOARD meeting adjourned 17 at 3:18 p.m.) 18 19 20 21 22 23 24

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217 CERTIFICATE OF REPORTER 1 I, LINDA KAY RIGEL, a Certified Shorthand 2 Reporter of the State of California, do hereby certify: 3 4 That I am a disinterested person herein; that 5 the foregoing CALIFORNIA INTEGRATED WASTE MANAGEMENT 6 BOARD meeting was reported in shorthand by me, Linda 7 Kay Rigel, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into 8 9 typewriting. I further certify that I am not of counsel or 10 11 attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting. 12 13 IN WITNESS WHEREOF, I have hereunto set my 14 hand this December 29, 2008. 15 16 17 18 19 LINDA KAY RIGEL, CSR Certified Shorthand Reporter 20 License No. 13196 21 22 23 24 25

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